Mashpee II
Petitioners
Submission

83-624

APPENDIX D

(Separate Submission)

RECEIVED
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SUPREME COURT, U.S.

1. Complaint
2. Federal Answer
3. Morse Report
4. McKenney Report
5. Congressional Report
6. Schoolcraft Report
7. Earle Report

14 October 1983

ROBT HAHN
40 Court St.
Boston, Mass.
Atty for Petitioners

D-1

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MASHPEE TRIBE and)
MASHPEE INDIAN RESERVATION and)
EARL H. MILLS, SR., CHIEF)
ELLSWORTH OAKLEY)
DELSCENA HENDRICKS)
JOHN A. PETERS)
RUSSELL M. PETERS)
AMELIA G. BINGHAM)
WILLIAM PETERS)
JOHN PETERS, JR.)
MAY L. LOPES)
EARL H. MILLS, JR.)
GKISEDTANAMOOGK)
DAISY MOORE)
ANITA NIELSEN)
CLINTON ATTAQUIN HAYNES)
JOHN NEWCOMB)
JOHN MENDES)
CAROL LOPEZ)
LEO G. PETERS)
EDGAR F. TOBEY, SR.)
FREDERICK POCKNETT)
CLARENCE MORAN)
VIRGINIA MORAN)
OLIVER POCKNETT)
LAURA MENDES)
LYDIA STANLEY)
MICHELE TURPIN)
JOAN AVANT TAVARES)
WALTER M. FRYE)
HERBERT NOYES)
NORMAN DIAS)
ROXANNE MILLS-BROWN)
PAULA D. PETERS)
LAWRENCE S. TOBEY, SR.) CIVIL ACTION NO. 81-3205-S
LAWRENCE S. TOBEY, JR.)
GEORGE T. TOBEY)
NATHANIEL J. TOBEY)
MALCOLM G. TOBEY)
MALCOLM TOBEY, JR.)
EARL N. CASH)
LEONA A. WHITE)
SOPHIA E. LOPES)
RHODA M. FERNANDEZ)
SILAS A. NEWCOMB, JR.)
GERTRUDE AIKENS)
PHILIP ALMEIDA)
ERIC ALMEIDA)
VICTOR ALMEIDA)
SANDRA ALVES)
SHIRLEY PELLS BULLOCK)
CLARENCE BULLOCK)
RENEE HENDRICKS BANKS)
MILDRED BLACK)

OGDEN BLACK)
MARLENE E. BLACK)
CAROL S. BROWN)
FREDERICK V. BROWN)
BETTY BICKFORD)
DOROTHY CASH)
EARL N. CASH, JR.)
BERNARD COOMBS)
ANITA COOMBS)
CINDY COSTA)
NATALIE COSTA)
ANEBA COSTA)
VICKIE COSTA)
DENISE COSTA)
LINDA COSTA)
JUANITA COSTA)
MARGARET L. COSTA)
JOHN OAKLEY)
IRVING OAKLEY)
MINNIE L. DeGRASSE)
CHRISTINE OAKLEY FLOYD)
MARSHA HELME)
SHIRLEY HELME)
MARJORIE DUARTE)
TARLTON A. EDWARDS)
RITA GONSALVES)
PETER GONSALVES III)
DION WESLEY FLOYD)
RICHARD FLOYD)
LINCOLN HENDRICKS)
MYRON HENDRICKS)
TEDDY W. HENDRICKS)
WINONA HENDRICKS)
CURTIS L. HENDRICKS)
DOROTHY BORDLEY GASKINNS)
MILTKER H. HENDRICKS)
MILTON HENDRICKS)
CHARLOTTE GRACE)
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SHELDON HENDRICKS)
LISA HENDRICKS)
KAREN LOPES)
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DONALD PETERS)
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BERTHA HICKS)

ADELINE TRACY HICKS)
WARREN M. HICKS)
LISA B. HICKS)
GARY HICKS)
DONALD HICKS III)
ADELINE B. HICKS)
AMANDA HICKS)
WARREN HICKS, JR.)
DONALD L. HICKS)
LORETTA WHITE JONES)
SHARON KENNEDY)
BRAD LOPES)
DEBRA LOPES)
VINCENT LOPEZ)
MARY LOPEZ)
MARCIA LOPEZ)
MARC LOPEZ)
RITA LOPEZ)
MARIE LOPEZ)
ROBERT LOPEZ)
ALICE LOPEZ)
CARL MILLS)
DELORES MILLS)
RHONDA MILLS)
RODNEY MILLS)
CARLETTE MILLS)
BRADFORD V. NORMAN)
GERALD OAKLEY)
WILBUR OAKLEY)
RICHARD OAKLEY)
DONNA OAKLEY)
KINO OAKLEY)
FRANKLIN OAKLEY)
LOIS OAKLEY)
MAURICE OAKLEY)
CATHERINE PERRY)
NADINE PETERS)
NEOTA PETERS)
DARLINE PETERS)
BERNADINE POCKNETT)
ELSIE POCKNETT)
DOUGLAS POCKNETT)
VERNON POCKNETT)
DONNELLA J. POCKNETT)
WILLARD POCKNETT)
VERNON M. POCKNETT II)
LANSING POCKNETT)
ELLEN FRYE SHARPE)
CAROLINE OAKLEY)
JUNE TIEXEIRA)
CARMEN TUBBS)
SEAMAN TURNER)
SEAMAN TURNER II)
RONALD TURNER)
PATRICIA TURNER)
HARRIET TURNER)
CAROLYN J. TURNER)

EDWIN WHITE)
MARYANN HENDRICKS)
TEDDY JOHN HENDRICKS)
JULIUS TOBEY)
VIOLA TOBEY)
BETTY ANN BICKFORD)
TRACY KUTCHEREA)
PEARL TOBEY)
MALCOLM TOBEY)
NANCY TOBEY)
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ROBIN TOBEY)
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ALTON TOBEY, JR.)
KEVIN TOBEY)
DOROTHY PELLS)
JANET PELLS)
LINDA PELLS)
LYDIA PELLS)
SHIRLEY PELLS)
HAROLD QUAN TOBEY)
CLAUDE BAPTISTE)
S QUANTO OAKLEY)
JAMES CASH)
PAUL R. HENDRICKS)
BARBARA HENDRICKS)
NINA LOPES)
EVERETT TOBEY)
HELEN ASHLEY)
GARY COUETT)
TERRY COUETT)
CAROLINE OAKLEY)
ALDEN LOPEZ)
BESSIE TOBEY FRENCH)
PETER FRENCH)
LAVERNE FRENCH)
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CLAYTON HENDRICKS)
MELISSA MELENDES)
BETSEY HENDRICKS)
BEATRICE JACKSON)
LAVERNE JACKSON)
ELEANOR JACKSON)
WAYNE JACKSON)
ROSALIE JACKSON)
DIANNE JACKSON)
ELMER W. HENDRICKS)
STACY PETERS)
KENNETH TOBEY)
LAWRENCE S. TOBEY III)
EUGENE TOBEY, JR.)
BRYAN TOBEY)
HAROLD TOBEY)

NANCY OAKLEY)
RUTH TOBEY WILLIAMS)
VIOLET ORTIZ)
ALMA SOUZA)
MERTLE RIBEIRO)
ROBERT HELME)
GEORGE HELM)
FLOYD HELM)
RUSSELL HELME)
BLANCHE DEAN)
NORMA PETERS)
DOROTHY INGE)
QUAN TOBEY)
SANDRA BELT)
EUGENE BELT)
KEVIN BELT)
ERNESTINE BENSON)
JUANITO BROWN)
SONJA CARRINGTON)
GINA M. CARRINGTON)
LEE CARRINGTON, JR.)
CORRINE FERNANDES)
BRENDA FERNANDES)
DIANE JACKLIN FRIET)
DORTOHY GREENE)
ALFRED GREENE III)
JOYCE GREENE)
ALCOTT HAMMOND)
LOUISE JACKLIN)
PEARL LIMA)
GEORGIANNA PELLS)
DEANNA PRIDE)
BELINDA PRIDE)
MIRIAM ROCKET)
ALICE SANTOS)
ROBERT SANTOS)
MELODY SANTOS)
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WALTER SANTOS)
JOSEPH SANTOS)
SELENA THAYER)
BONNIE THAYER)
THELMA THAYER)
CHARLES THAYER, JR.)
BILLY THAYER)
CATHERINE THAYER)
WILHELMINA TOBEY)
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ERNEST TOBEY, JR.)
KEVIN TOBEY)
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KATHY TOBEY)

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ELIZABETH TOBEY)
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MARC TOBEY)
KAREN TOBEY)
AARON TOBEY, JR.)
MARC TOBEY)
GERTRUDE COOMBS TROTMAN)
LINDAY COOMBS TROTMAN)
TIMOTHY COOMBS TROTMAN)
NELSON COOMBS TROTMAN)
MARYLYN VIEGA)
ERDINE WILLIAMS)
DEBRA DeBARROS)
CECILIA GOMES)
VANESSA MENDES)
NORENE MIRANDA)
MICHELLE MIRANDA)
CECELIA TOBEY)
EDGAR F. TOBEY, JR.)
ELLERY TOBEY)
MARTY TOBEY)
LAURA TOBEY)
STEPHANIE TOBEY)
GENEVIEVE LAMMERS)
EDITH LAMMERS)
JAMES LAMMERS)
HARVEY LAMMERS)
DAVID LAMMERS)
EARL LAMMERS)
PEARL WIXON LAMMERS)
INEZ MILLS)
RICHARD MILLS)
GEORGE T. TOBEY, JR.)
GREGORY TOBEY)
GINA TOBEY)
GAY TOBEY)
SHIRLEY MILLS)
NICOLE TOBEY)
JYL TOBEY)
GLENNA COOMBS)
ROGER TOBEY)
GUSTAVUS COUETT)
AURELIA COOMBS)
SILAS NEWCOMB)
BONITA COOMBS)
ROBERT TOBEY)
LAURA MARDENBARO)
THOMAS HENDRICKS)
Plaintiffs)
)
v.)

JAMES G. WATT)
WILLIAM WELD)
WILLIAM I. RANDALL)
MARILYN M. SULLIVAN)
JOHN E. FENTON, JR.)
SHIRLEY LEWIS)
JOHN V. HARVEY)
JOHN J. BOWES)
STEPHEN WEEKES)
WILLIAM C. NYE)
COMMONWEALTH OF MASSACHUSETTS)
TOWN OF MASHPEE)
Defendants)

FIRST AMENDED COMPLAINT

INTRODUCTION

1. This is a civil action for declaratory and injunctive relief by which plaintiffs, for their Indian Community, for their Tribe, for themselves and for others similarly situated:

(a) Declare certain Indian land within the territorial jurisdiction of this Court known as the Mashpee Indian Reservation, is bound by federal sovereign policies against dealings with the title, the environmental resources, the historic and cultural significance and the archeological resources of such Indian land, without federal consent, as asserted by the United States Constitution, Art. 1, Sec. 8, Cl. 3, Art. 1, Sec. 10, Cl. 1 and Art. II, Sec. 2, Cl. 2; and as affirmed by 16 USC secs. 461 through 470n and 470aa through 470 11; 25 USC secs. 177 and 1322(b); 28 USC sec. 1360(b); and 42 USC secs. 4331 through 4335;

(b) Declare plaintiffs as they represent the Mashpee Indian Tribe, a dependent Indian Community, and as they are members-descendants thereof, are under the sovereign protection of the United States as asserted by the United States Constitution, Article 1, Section 8, Clause 3;

(c) Declare Chapter 463, Acts 1869 of the Massachusetts Legislature, as it purports, without federal consent, to authorize private dealings with said Mashpee Indian Reservation and as it purports to remove the Mashpee Indians from federal sovereign protection, violates the Supremacy, the Treaty, the Commerce and the Fourteenth Amendment Equal Protection and Due Process clauses of the United States Constitution, and is therefore, unconstitutional;

(d) Declare Chapter 293, Acts 1870 of the Massachusetts Legislature, as it purports, without federal consent, to incorporate the Mashpee Indian community as a political subdivision of Massachusetts, namely, the Town of Mashpee, and as it purports to transfer all its Tribal assets to the Town, including the Tribe's commons in land, funds, fishing, hunting, trapping, water, beaches, shores, wood, pasture, ice, buildings, monuments, cemeteries, cliffs, and other rights, and as Chapter 293 purports to empower the Barnstable County Probate Court to allot or sell the Tribe's common lands, also violates the Supremacy, the Treaty, the Commerce and the Fourteenth Amendment Equal Protection and Due Process clauses of the United States Constitution, and is therefore, unconstitutional;

(e) Declare actions by state, county and local officials and claims by private persons and organizations under color of said 1869 and 1870 legislation in derogation of said Mashpee Indian Reservation and said Mashpee Indian status, constitutes a deprivation of the rights, privileges or immunities of plaintiffs members-descendants under said 14th Amendment and 42 USC sec. 1983, and entitles plaintiffs to redress;

(f) Declare failure of the United States to assert its trust responsibility over said Mashpee Indian Reservation and said dependent Mashpee Indian community, deprives plaintiffs of their property and of equal protection in violation of the Due Process Clause of the Fifth Amendment to the United States Constitution and entitles plaintiffs to redress;

(g) Declare plaintiffs are entitled to possession of said Indian land and to exercise all tribal and individual powers, prerogatives and commons relative thereto;

(h) Enjoin all defendants from further acts in derogation of plaintiffs' rights relative to said Mashpee Indian Reservation and to their said community, tribal and individual Indian status;

(i) Award plaintiffs counsel fees and expenses under 42 USC sec. 1988.

JURISDICTION

2. This Court has jurisdiction under the United States Constitution, Article 1, Section 8, Clause 3, Article III, Section 2, and Amendments Five and Fourteen; and under the United States Code, Title 5, Section 701 et seq; Title 16, Sections 461 through 470n and 470aa through 470 11; Title 18, Sections 1151 and 1162(b); Title 25, Sections 177, 1302, 1321(b) and 1322(b); Title 28, Sections 1331, 1337, 1343(3)(4), 1345, 1346, 1355, 1360(b), 1361, 1362, 1655, 2201 and 2415; and Title 42, Sections 1983, 1988 and 4331 through 4335; and under its general equity jurisdiction including federal Indian common law as it recognizes inherent federal power over Indians and Indian lands.

PARTIES

3. Plaintiffs:

(a) Gertrude Aikens, Philip, Eric and Victor Almeida, Sandra Alves, Richard and Inez Mills, Renee Hendricks Banks, Amelia Bingham, Mildred, Ogden and Marlene E. Black, Carol S. and Frederick V. Brown, Alden Lopez, Dorothy, Earl N. (Sr.) and Earl N. (Jr.) Cash, Bernard and Anita Coombs, Cindy, Juanita, Aneba, Vickie, Denise, Linda, and Margaret L. Costa, Minnie L. DeGrasse, Norman Dias, Marjorie H. Duarte, Tarlton A. Edwards, Walter M. Frye, Gkisedtanamoogk, Rita and Peter Gonsalves, Nancy and Bernice Grant, Delscena, Lincoln, Myron, Teddy W., Winona, Curtis L., Carlton, Milteer H., Milton, Patricia, Lawrence III, Sheldon, Lisa, Ellen M, Mabel, Elmer W., Lawrence Jr., Thurald, June, Judith M., Christine, Peter F. and Janet Hendricks. Kevin, Brice, Geraldine, Velma, Delscena, Bertha, Lisa B., Adeline Tracy, Warren M., Gary, Donald III, Adeline B., Amanda, Warren, Jr. and Donald L. Hicks, Loretta White Jones, Sharon Kennedy, May L., Brad and Debra Lopes, Vincent, Mary, Marcia, Marc, Rita, Marie, Alice and Robert Lopez, Earl H. Sr., Earl H. Jr., Carl, Delores, Rhonda, Rodney and Carlette Mills, B.V., Squanto, Norman, H.N., Nancy , Ellsworth, Gerald, Caroline, Wilber, Richard, Kino, Franklin, Lois, Donna, E.M., E.W. and Maurice Oakley, Catherine Perry, J.A. Sr. and Jr., Stacy, Norma, Donald, Russell, W.J., P.D., L. G., Nadine, Neota and Darline Peters, Bernadine, Frederick, Oliver, Elsie, Douglas, Vernon, Donnella J., Willard, Vernon M. and Lansing Pocknett, Ellen Frye Sharpe, S.P & C. Bilock, Joan Avant Tavares, June Tiexeira, Carmen Tubbs, Seaman, Seaman II, Ronald, Patricia, Harriet and Carolyn J. Turner, and Edwin White, all of Mashpee; Clarence and Virginia Moran of Avon; Maryann and Teddy John Hendricks, Julius and Viola Tobey, all of Boston; Betty Ann Bickford, Tracy Kutcheres, John Mendes, and Pearl, Malcolm, Malcolm Jr., Nancy, Alton, Alcott, Yvonne, Robin, Alton, Alton Jr. and Kevin Tobey, all of Bourne; Michele Turpin of Burlington; Dorothy, Janet, Linda, Lydia and Shirley Pells, and Harold Quan Tobey, all of Centerville; Claude Baptiste, Shirley Mills, James Cash, Paul R. and Barbara Hendricks, Nina Lopes, Roxanne Mills-Brown, Earle H. Mills, Jr., and Everett Tobey, all of Falmouth; John Newcomb of Forestdale; Helen Ashley of Cay Head; Allen H. and Wayne Bearse, Jean Bonner, Elizabeth DeGrace, Bessie Tobey, Peter, Laverne and Charlene French, Gary & Terry Couett, Clayton Hendricks, S.E. Lopes, M. Melendes, K., L.S. Jr. and III, E. Jr., B. and H. Tobey, B. Oakley and Ruth Tobey Williams, all of Hyannis; Clinton Attaquin Haynes, Daisy Moore, Anita Nielson and Violet Ortiz of Middleborough; Blanche Dean, Robert, George, F.R., L., C., M., & S. Helme; M. Riberio, A. Souza, the Lammers, and C.O. Floyd, all of New Bedford; J. and I. Oakley of Haverhill; K. Lopes, C. Grace and the Jacksons of Boston; L. Stanley and B. Bickford of Marstons Mills;

D. Inge & Q. Tobey-Osterville; Sandra, Eugene and Kevin Belt, Ernestine Benson, Juanito Brown, Sonja, Gina M. and Lee Jr. Carrington, Rhoda M., Corrine and Brenda Fernandes, Diane Jacklin Friet, Dorothy, Joyce and Alfred III Greene, Alcott Hammond, Louise Jacklin, Pearl Lima, Laura Mendes, Silas A. Newcomb, Jr., Georgianna Pells, Deanna and Belinda Pride, Miriam Rocket, Alice, Robert, Melody, Albert, Walter and Joseph Santos, Selena, Bonnie, Catherine, Thelma, Billy and Charles Jr. Thayer, Wilhelmina, Ernest, Ernest Jr., Kevin, Eric, Courtney, Roland, Paul, Robert Jr., Malcolm G., Malcolm Jr., Bonnie, Kathy, Ernestine, Thornton, Thornton II, Pamela, Debbie, Elizabeth, Aaron, Jean, Marc, Karen, Aaron Jr. and Marc Tobey, Gertrude Coombs, Linday Coombs, Timothy Coombs and Nelson Coombs Trotman, Marylyn Viega and Erdine Williams, all of Pocasset; Debra DeBarros, Cecilia Gomes, Vanessa Mendes, Norene and Michelle Miranda, and Cecelia, Edgar F. Sr., Edgar F. Jr., Ellery, Marty, Laura and Stephanie Tobey, all of Santuit; L. White of Waquoit; M. Coombs of Wareham, L.S. Sr., George T., Nathaniel Jr., George T. Jr., Gregory, Gina and Gay Tobey, all of West Hyannisport; Putnam Peters and Nicole Tobey of Yarmouth; are all citizens of Massachusetts; and Glenna Coombs of Los Angeles and Jyl Tobey, D. Gaskinns, D&R Floydof California; Thomas Hendricks, Laura Mardenbro and Robert Tobey, all of Connecticut; Bonita Coombs of Miami, Florida; Silas Newcomb of Michigan; Aurelia Coombs and Gustavus Couett, both of Providence, Rhode Island; and Roger Tobey of Wisconsin; are all citizens of the United States, who claim on behalf of the Mashpee Tribe (also known as part of the South Sea Indians), a recognized dependent Indian community of the United States; and on their own behalf as they are members-descendants of said Tribe;

(b) The foregoing plaintiffs also claim on behalf of a class consisting of the members-descendants of said Mashpee Indian tribe as of the 1849 and 1861 tribal censuses;

(c) The foregoing class of members-descendants of the Mashpee Indian tribe, are so numerous that joinder of all members is impracticable. There are, however, questions of law and fact common to the class, the claims of plaintiffs are typical of the claims of the class and plaintiffs will fairly and adequately represent the interests of the entire class. In addition all defendants have acted, refused or failed to act on grounds generally applicable to the entire class, thereby making declaratory relief appropriate to said class as a whole.

4. Public Defendants:

(a) James G. Watt of Washington, D.C. is United States Secretary of Interior whose duties include executive responsibility for Indian affairs; William Weld of Needham, Massachusetts is United States Attorney for the District of Massachusetts and generally responsible for federal legal questions arising in said District; William I. Randall of Framingham, Marilyn M. Sullivan of Wollaston, and John E. Fenton, Jr., of Andover and all of Massachusetts, are respectively Chief Justice and Associate Justices of the Massachusetts Land Court: Shirley

R. Lewis of Taunton and John V. Harvey of Cotuit; John J. Bowes of Barnstable and Stephen Weekes of Harwich, and all of Massachusetts, are respectively First Justice and Associate Justice of Probate, and Sheriff and Register of Deeds for Barnstable County.

(b) The Commonwealth of Massachusetts is one of the States of the United States; and the Town of Mashpee is an alleged duly constituted municipal corporation of said Commonwealth of Massachusetts.

5. Private Defendants:

(a) William C. Nye of Barnstable, Massachusetts claims or holds adversely to plaintiffs certain portions of the Mashpee Indian Reservation;

(b) The foregoing private defendant also represents a class consisting of personswho hold or claim adversely to the plaintiffs;

(c) The foregoing class of defendants is so numerous that joinder of all members is impracticable. There are, however, questions of law and fact common to the entire class, the claims of the private defendants are typical of the claims of said class and said defendants will fairly and adequately represent the interests of said class. In addition, all said defendants have acted, refused and failed to act on grounds generally applicable to the class thereby making declaratory and injunctive relief appropriate to the class as a whole.

INDIAN LAND INVOLVED

6. The Indian land involved consists of the entire estimated 16,000 acre Mashpee Indian Reservation (formerly called Marshpee District), see attachment "A", is part of the Indian lands of Massachusetts, see attachment "B", and includes the geographical area of the so-called town of Mashpee, a defendant herein. See attachment "C". Plaintiffs hereby affirm all additions to and challenge all deletions from said Reservation as the net result of any Act of Massachusetts or the United States after 1789.

APPLICABLE LAW

7. Constitutional Provisions:

The United States Constitution provides in pertinent part:

(a) "The Congress shall have the power...to regulate Commerce...with the Indian Tribes." Article I, Section 8, Clause 3.

(b) "This Constitution, and the Laws of the United States which shall be made in pursuance thereof...shall be the supreme Law of the land; and the Judges in every State shall be bound thereby, any thing in the Constitution or Laws of any State to the Contrary notwithstanding." Article VI, Clause 2.

(c) "No person shall...be deprived of...property, without due process of law...." Amendment 5.

(d) "No state shall enter into any treaty...." Art. 1, Sec. 10, Cl. 1.

(e) "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of...property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." Amendment 14.

8. Statutes:

The United States Congressional Acts provide in pertinent part:

(a) "No purchase, grant, lease, or other conveyance of land, or of any title or claim thereto, from (any Indian), any Indian Nation or tribe of Indians, shall be of any validity in law or equity, unless the same be made by treaty or convention entered into pursuant to the Constitution." 25 USC sec. 177 (parenthetical phrase added per sec. 29, Acts 1834, Sess. 1, Ch. 16).

(b) "Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall confer jurisdiction upon the State to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein." 18 USC 1162(b), 25 USC 1321(b) and 1322(b), 28 USC 1360(b)(P.L. 280).

(c) "The Congress...recogniz(es) the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recogniz(es) further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man...." NATIONAL ENVIRONMENTAL POLICY ACT OF 1969, 42 USC sec. 4331(a).

(d) "It is declared that it is a national policy to preserve for public use historic sites, buildings, and objects of national significance for the inspiration and benefit of the people of the United States." 16 USC sec. 461.

(e) "The Congress finds that -- (1) archaeological resources on public lands and Indian lands are an accessible and irreplaceable part of the Nation's heritage; (2) these resources are increasingly endangered because of their commercial attractiveness; (3) existing Federal laws do not provide adequate protection to prevent the loss and

destruction of these archaeological resources and sites resulting from uncontrolled excavations and pillage...." 16 USC sec. 470aa(a).

(f) "Every person who, under color of any statute, ordinance, regulation, custom or usage, of any State or Territory, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress." 42 USC sec. 1983.

(g) "In any action or proceeding to enforce...section( ) 1983 of this title...the court, in its discretion, may allow the prevailing party...a reasonable attorney's fee as part of the costs." 42 USC sec. 1988.

9. Official Legal Opinions:

The United States Attorney General Opinions provide in pertinent part:

(a) "Upon examination of the statutes and treaties, I feel justified in coming to the conclusion that it was the intention of Congress that the inhibition contained in section 2116, Revised Statutes (now 25 USC sec. 177), should have the same application to individual Indians that it has to the Indian nations and tribes...." 18 OPS. ATTY. GEN. 486 (1886)(clarification supplied).

10. Cases:

The Federal and State Court Opinions provide in pertinent part:

(a) "It very early became accepted doctrine in this Court that although fee title to the lands occupied by Indians when the colonists arrived became vested in the sovereign -- first the discovering European nation and later the original States and the United States -- a right of occupancy in the Indian tribes was nevertheless recognized. That right, sometimes called Indian title and good against all but the sovereign, could be terminated only by sovereign act. Once the United States was organized and the Constitution adopted, these tribal rights to Indian lands became the exclusive province of the federal law.

* * * *

"The rudimentary propositions that Indian title is a matter of federal law and can be extinguished only with federal consent applies in all of the States, including the original 13." ONEIDA INDIAN NATION OF NEW YORK v. COUNTY OF ONEIDA, 414 US 661, 667, 670 (1974)(emphasis added).

(b) "The next year, 1789, the United States was formed and Massachusetts' sovereignty over the Indian lands ebbed." EPPS v. ANDRUS, 611 F2d 915, 916 (1st Cir. 1979).

(c) "Under section 8, article 1, of the Constitution of the United States, the power to regulate commerce with the Indian tribes is vested in Congress. This power has been most liberally construed. It is a continuing power and cannot be abdicated. It covers traffic or intercourse, not only with Indian tribes, but also with a member of such tribe, although within the limits of a state." BROWNING v. UNITED STATES, 6 F2d 801, 807, 808 (1925), citing UNITED STATES v. HOLLIDAY, 3 Wall. 407 (1865)(emphasis added).

(d) "To be sure, when Congress has legislated on Indian matters, it has, most often, dealt with the tribes as collective entities. But those entities are, after all, composed of individual Indians, and the legislation confers individual rights." McCLANAHAN v. ARIZONA STATE TAX COMMISSION, 411 US 164, 181 (1973).

(e) "The treaty was with the tribe; but the right of taking fish at all places within the reservation, and usual and accustomed grounds and stations outside the reservation, was plainly a right common to the members of the tribe -- a right to a common is the right of an individual of the community." MASON v. SAMS, 5 F2d 255, 258 (WD Wash. 1925) (emphasis added).

(f) "From MASON it is clear that an individual Indian enjoys a right of user in tribal property derived from the legal or equitable property right of the Tribe of which he is a member." KIMBALL v. CALLAHAN, 590 F2d 768, 773 (9th Cir. 1979), cert. den. 444 US 826 (emphasis added).

(g) "There seems to be no doubt that a right of common... is such a title in the land as may sustain a claim for compensation...." THOMAS v. MARSHFIELD, 27 Mass.(10 Pick.) 364, 366 (1830).

(h) "(T)he plaintiff may individually well support an action of the case for an injury to his right of common, however small the damage." KENYON v. NICHOLS, 1 RI 106, 110 (1848).

(i) "That rights in property are basic civil rights has long been recognized. ...Congress recognized these rights in 1871 when it enacted the predecessor of sections 1983 and 1343(3). We do no more than reaffirm the judgement of Congress today. LYNCH v. HOUSEHOLD FINANCE CORP., 405 US 538, 552 (1972).

(j) "We concluded...this court had jurisdiction to entertain the action...under 28 USC sec. 1343(3) and 42 USC sec. 1983 with respect to individual Tribal members." CONFEDERATED SALISH & KOOTENAI TRIBES v. MONTANA, 392 F. Supp. 1325, 1327 (D. Mont. 1975).

(k) "(28 USC) Section 1331 is...available to these (individual Indian) plaintiffs as a jurisdictional basis for their claims." ONEIDA INDIAN NATION OF WISCONSIN v. STATE OF NEW YORK, 520 F. Supp. 1278, 1290 n. 10 (NDNY 1981).

(l) "(A) cause of action may be implied directly under the Equal Protection Component of the Due Process Clause of the Fifth Amendment in favor of those who seek to enforce this constitutional right." DAVIS v. PASSMAN, 442 US 228, 242 (1979).

(m) "(W)here federally protected rights have been invaded, it has been the rule from the beginning that courts will be alert to adjust their remedies so as to grant the necessary relief. And it is also well settled that where legal rights have been invaded, and a federal statute provides for a general right to sue for such invasion, federal courts may use any available remedy to make good the wrong done." BELL v. HOOD, 327 US 678, 684 (1946).

FACTS OF CASE

11. Archeological digs indicate plaintiffs' aboriginal ancestors came to Cape Cod about 11,000 years ago.

12. The Mashpee or Marshpee Tribe, whose original name was Massipee or Massapee meaning "great waters", occupied and controlled the Cape Cod area today known as Mashpee. Smaller groups under their control included the Coatuits, Satuits, Pawpoesits, Wakoquets, Ashimuets, Weesquobs and Saukatucketts.

13. Before long, the whites referred to the mid and lower Cape tribes as the South Sea Indians, including the Mashpees, "south sea" presumably meaning Buzzards Bay and Vineyard Sound.

14. During the mid 1600s Richard Bourne, a white farmer in South Sandwich sympathetic to the mid Cape Indians, became concerned about the swift occupation of Indian lands by whites. So Bourne arranged to reserve a 12,500 acre tract exclusively for the Indians which he called the Plantation of Marshpee.

15. In 1685, after many years of persistent effort, during which Bourne was ordained Minister to the Marshpee Indians, the Plymouth General Court formally granted the Mashpee reservation to the "South Sea Indians and their children", subject to an Indian and sovereign alienation restriction, thereby investing the Marshpee Indians as tenants in tail and securing a tribal land base of approximately 16,000 acres.

16. In 1692, a King's Charter merged Massachusetts Bay and Plymouth Colonies into the Province of Massachusetts Bay, thereby bringing the Mashpee Tribe and their Reservation under Provincial control.

17. In 1723, although the Provincial legislature organized Mashpee as a proprietary, the 1685 plan was left intact, namely, that the Mashpee Tribe be continued as a permanent dependent Indian community with its land base subject to sovereign alienation restriction.

18. In addition, the Mashpees retained their tribal commons and individual rights to said commons, including funds, hunting, fishing, trapping, seaweed, peat, wood, pasture and others, thereby maintaining their Indian community [illegible] Reservation to the present time.

19. On March 4, 1789, the United State of America became operational. Under its new Constitution, Massachusetts, along with the 12 other original States, ceded exclusive authority to the central government to deal with the Indians, thereby ending Massachusetts' control over the Mashpee Indian community and their Reservation.

20. In 1790, Congress passed the first national Indian Trade and Intercourse Act, thereby affirming both the constitutional principle and a continuing sovereign policy restricting Indian land transactions established by the English Crown during the colonial period and continued by the 13 original States during their brief sovereignties from 1780 until early 1789.

21. In 1820, Dr. Jedidiah Morse, at the direction of President Monroe and Secretary of War Calhoun, visited, investigated and inventoried all the Indian Tribes of the United States. Dr. Morse included the Marshpee Tribe of Massachusetts, as one who "reside on their...Reservations", in his Report to the President, the Secretary of War and the Congress.

22. In 1825, Col. Thos. L. McKenney of the Indian Department, at the direction of Secretary of War Calhoun, prepared a Report, listing the Marshpees as one of the "remaining" Indian Tribes in the United States "residing on their respective reservations."

23. Between 1827 and 1869, Massachusetts issued eleven reports or other documents affirming the continued existence of the Marshpees and their Reservations as one of the "distinct bands, communities or tribes having ...reservations..., with 403 tribal members and 16, 132 acres of land.

24. In 1972, United States Indian Commissioner Lewis R. Bruce, in forewording an Indian Bureau publication, referred to the Mashpee Community of Massachusetts as one of "those (Indian tribes, bands or groups) for which the Bureau.. has definite responsibility."

25. In 1979, the United States Department of Interior, in a condemnation proceeding, acknowledged the Mashpee Tribe as a successor in interest to a parcel of Nauset Indian land in Wellfleet, and paid $33,750 therefor.

26. In 1869, 80 years after Massachusetts' sovereignty over the Indians and Indian lands within the Commonwealth had ended, the Massachusetts legislature, without federal authority, passed Chapter 463, Acts 1869, purportedly stripped all Indians in Massachusetts including the Mashpees, of their Indian status and federal protection, and purportedly lifted the federal alienation restriction on Indian land, including the Mashpees'. See attachment "B".

27. In 1870, one year later, again without federal authority, by Chapter 293, Acts 1870, Massachusetts purportedly incorporated the Mashpee Indian community and their Reservation as a town, purportedly transferred to the Town the Mashpee Tribal commons in land, funds, fishing and other rights, and purportedly empowered the Barnstable County Probate Court to allot or sell the Mashpee tribal lands.

28. Pursuant to this legislation, various deeds have been given by Indians without federal consent, resulting in substantial non-Indian intrusion on the Mashpee Reservation, destruction of Indian environment, structures and monuments, and construction of non-Indian structures

and installations servicing same.

29. Also pursuant to this legislation, various petitions by non-Indians have been presented to the Massachusetts Land Court, asking registration of their purported titles to portions of the Mashpee Indian Reservation. The Land Court has entertained these petitions, and without federal consent, entered decrees as prayed. For example, see Reg. No. 39358 below.

30. Pursuant to said illegal 1870 Massachusetts legislation, and without federal authorization, the Town of Mashpee has assumed de facto Mashpee tribal powers, by purportedly taxing the Mashpee Reservation, asserting purported land use control over some or all said Reservation through zoning by-laws, building permits, special permits and the like. In addition, the Town has further usurped Tribal authority by asserting purported control over the Tribal commons, such as hunting, fishing, trapping, water, beach and other rights and permitting non-Indian exercise of same.

31. From 1789 to the present day, the Mashpee Indian community and their Reservation have been federally recognized and under the exclusive sovereign control of the United States.

32. The plaintiff members-descendants and their ancestors have been members of said Mashpee Indian community known as the Mashpee tribe exclusively occupying their said Reservation from time immemorial to the present.

33. Neither the Mashpee Tribe, their community nor their Reservation have been terminated by the United States or any prior sovereign.

34. At no time has the United States prevented or corrected these illegal acts by the Commonwealth of Massachusetts and its Courts, the Town of Mashpee and the non-Indian trespassers, or sought redress of the wrongs done, or accorded the same protection to the Mashpee Indian community, its members-descendants and their Reservation as accorded other dependent Indian communities in the United States, their members-descendants and their Reservations.

JUSTICIABLE CONTROVERSY

35. Plaintiffs, on behalf of the Mashpee Tribe, individually and for their class, hereby challenge all non-federally authorized Acts of the Massachusetts Legislature after 1789 in derogation of the Mashpee Indian Community, Tribe and Reservation, including the purported stripping of their status as federal wards and Indians and purportedly lifting the federal alienation restriction on their Reservation.

36. Plaintiffs, on behalf of the Mashpee Tribe, individually and for their class, hereby challenge the non-federally authorized jurisdiction of the Barnstable County Probate Court to adjudicate any purported partitions of the Mashpee Reservation.

37. Plaintiffs, on behalf of the Mashpee Tribe, individually and for their class, hereby challenge the non-federally authorized jurisdiction of the Massachusetts Land Court to purportedly adjudicate title to any part of the Mashpee Reservation, including a pending Registration Petition No. 39358 by William Nye, one of the defendants herein.

38. Plaintiffs, on behalf of the Mashpee Tribe, individually and for their class, hereby disclaim all non-federally approved deeds to non-Indians from themselves, their ancestors, their descendants, heirs and next of kin under color of said Chapter 463, Acts 1869 and Chapter 293, Acts 1870.

39. Plaintiffs, on behalf of the Mashpee Tribe, individually and for their class, hereby challenge the non-federally authorized jurisdiction of the Town of Mashpee to usurp Mashpee tribal power over the Mashpee Reservation including their inland and ocean waters, beaches and shores, or any of the tribal commons in hunting, fishing (including shell and non-shell, inshore, offshore, surf and inland), trapping, boating, bathing, water and other rights.

40. Plaintiffs, on behalf of the Mashpee Tribe, individually and for their class, hereby challenge the non-action or failure of the United States to help them by preventing and correcting the acts complained of or by seeking other redress of the harm done.

PRAYERS FOR RELIEF

Preliminary Orders

WHEREFORE, plaintiffs respectfully ask that pending final determination of this action, to prevent immediate, future and irreparable harm to plaintiffs and their class and to prevent further complication of the issues herein, this Court enter an order preliminarily restraining:

1. Defendants William I. Randall, Marilyn M. Sullivan and John E. Fenton, Jr., as they are respectively Chief Justice and Associate Justices of the Massachusetts Land Court, from proceeding further with Land Court No. 39358 (Reg.) or any other matter now pending before or which may be entered in said Court purporting to affect title to the Mashpee Indian Reservation described herein;

2. Defendants Shirley Lewis and John Harvey, as they are First Judge and Judge of Barnstable County Probate Court, from proceeding with any matter now pending before or which may be entered in said Court affecting the Mashpee Indian Reservation described herein;

3. Defendant John Bowes, as he is Sheriff of Barnstable County, from serving any State, County or Mashpee based process or holding any Sheriff's sales, involving the Mashpee Indian Reservation described herein;

4. Defendant Stephen Weekes, as he is Register of Deeds and Assistant Land Court Recorder of Barnstable County, from recording any non-federally approved deeds, leases, decrees or other instruments involving or affecting the Mashpee Indian Reservation described herein;

5. Defendant Town of Mashpee from taxing, taking or selling any part of the Mashpee Indian Reservation described herein; from permitting any building, alteration, demolition, water connection or waste disposal system, or other land use or structural permits to or for non-Indians affecting said Reservation; from permitting any non-Indian fishing (including shell and non-shell), hunting, trapping, boating, bathing,

and the like, on the land and the inland and salt water beaches and shores of said Reservation; from doing or failing to do any act which will negatively affect Indian or Indian related structures, monuments, roads, trails, burial grounds and the like on or within said Reservation; from using any monies raised from taxing said Reservation to pay to defend instant action or otherwise used to oppose plaintiffs herein.

General Relief:

Further, plaintiffs ask this Court declare that:

1. Chapter 463, Acts 1869, of the Massachusetts Legislature, as it purports, without federal authority, to terminate dependent Indian communities in Massachusetts including the Mashpee tribe, and as it purports to terminate Indian wardship and Indian status, and as it purports to terminate Indian Reservations in Massachusetts by authorizing allotment and alienation of tribal lands including the Mashpee tribal land, violates the Supremacy, the Treaty, the Commerce and the Fourteenth Amendment Equal Protection and Due Process clauses of the United States Constitution, and is therefore, unconstitutional;

2. Chapter 293, Acts 1870 of the Massachusetts Legislature, as it purports, without federal consent, to incorporate the Mashpee Indian community as a political subdivision of Massachusetts, namely, the Town of Mashpee, and as it purports to transfer all the Tribal assets to the Town, including the Tribe's common lands, its common funds, its fishing and other rights, and as Chapter 293 purports to empower the Barnstable County Probate Court to allot, or sell the tribal common lands, also violates the Supremacy, the Treaty, the Commerce and the Fourteenth Amendment Equal Protection and Due Process clauses of the United States Constitution, and is therefore, unconstitutional;

3. All decrees of the Massachusetts Land Court and the Barnstable County Probate Court, all acts of Barnstable County and the Town of Mashpee, and all claims based upon private deeds or adverse user, affecting or dealing with the Mashpee Indian Reservation under color of said legislation, are null and void;

4. All non-Indians occupying any part of the Mashpee Indian Reservation under color of said legislation, or under any deed or decree pursuant thereto or descending therefrom, or by adverse user, are trespassers;

5. Such non-Indian trespass which includes completed and in progress structures for non-Indian use and services occupying, appurtenant or relative thereto, and which result in substantial damage to Indian environment such as usurping, destroying, polluting and depleting such Indian resources as land, timber, vegetation, beaches, water, air, fish, game and the like, are illegal;

6. Plaintiffs are entitled to possession and other redress.

In Rem Relief:

Further, plaintiffs ask this Court declare that:

7. The Mashpee Indian Reservation:

(a) Is an existing Indian reservation and Indian country;

(b) Is federally recognized;

(c) Is subject to inherent federal power over Indian land;

(d) Is subject to Article 1, Section 8, Clause 3 of the United States Constitution;

(e) Is subject to 25 USC sec. 177.

Tribal Relief:

Further, plaintiffs ask the Court declare that:

8. The Mashpee Indian Tribe:

(a) Is a dependent Indian community known as the Mashpee Tribe;

(b) Is federally recognized;

(c) Is subject to Article 1, Section 8, Clause 3 of the United States Constitution;

(d) Is under exclusive federal trust protection;

(e) Has a land base, namely, the Mashpee Indian Reservation;

(f) Is one of the dependent Indian communities of the United States; with the right to participate in federal programs and to receive federal grants; the right to tribal government, tribal elections and tribal funds; and the right to maintain other commons including fishing, hunting, pasturing, bathing, boating, wood, water, air, peat, seaweed, minerals, ice and the like.

9. Under color of Chapter 463, Acts 1869 and Chapter 293, Acts 1870, the Commonwealth of Massachusetts, the Land Court, the Barnstable County Probate Court and the Town of Mashpee deprive and diminish the Mashpee Tribal right to:

(a) Its land base;

(b) Its status as an Indian community;

(c) Its powers, prerogatives and commons.

10. Such deprivation and diminution:

(a) Violates Art. VI, Cl. 2, Art. 1, Sec. 8, Cl. 3, Art. 1, Sec. 10, Cl. 1 and Art. II, Sec. 2, Cl. 2, U.S. CONST.;

(b) Violates inherent federal power over Indian matters;

(c) Violates the Nonintercourse Act, 25 USC sec. 177;

(d) Entitles plaintiff Mashpee Tribe to redress, including damages and restraining orders.

11. By standing by and permitting the foregoing deprivation and diminution under color of state law, the United States is in breach of its trust duty and deprives and diminishes the Mashpee tribal right:

(a) To its land base;

(b) To its status as an Indian community;

(c) To its powers, prerogatives and commons.

12. Such deprivation and diminution:

(a) Is a breach of trust under federal equity and Indian common law standards;

(b) Is a breach of trust under federal due process and equal protection standards;

(c) Is a breach of trust under the commerce clause, United States Constitution, Article 1, Section 8, Clause 3;

(d) Isa breach of trust under the Nonintercourse Act, 25 USC sec. 177;

(e) Entitles plaintiff Mashpee Tribe to redress.

Individual Relief:

Further, plaintiffs ask the Court declare that:

13. Under color of Chapter 463, Acts 1869 and Chapter 293, Acts 1870, the Commonwealth of Massachusetts, the Land Court, the Barnstable County Probate Court and the Town of Mashpee deprive and diminish the right of the individual members-descendants of the Mashpee Tribe:

(a) To be a part of an Indian community and to share in tribal powers, prerogatives and commons;

(b) To their status as Indians;

(c) As tenants-in-tail of the Mashpee Indian Reservation;

(d) To a common in fishing, hunting, boating, pasturing, bathing, wood, water, air, peat, seaweed, minerals, ice and the like.

14. Such deprivation and diminution:

(a) Denies 14th Amendment equal protection and due process;

(b) Violates inherent federal power over Indian matters;

(c) Violates the commerce and treaty clauses: Art. 1, Sec. 8, Cl. 3, Art. 1, Sec. 10, Cl. 1 and Art. II, Sec. 2, Cl. 2;

(d) Violates the supremacy clause (Article VI, Clause 2);

(e) Violates their civil rights (42 USC sec. 1983);

(f) Violates their environmental rights (42 USC secs. 4331-4335);

(g) Violates their water rights (25 USC sec. 1322(b));

(h) Entitles plaintiffs members-descendants to damages;

(i) Entitles plaintiffs members-descendants to restraining orders.

15. By standing by and permitting the foregoing deprivation and diminution under color of state law, the United States is in breach of its trust duty and deprives and diminishes the right of the individual members-descendants of the Mashpee Tribe:

(a) To be part of an Indian community;

(b) To their Indian status;

(c) As tenants-in-tail of the Mashpee Indian Reservation;

(d) To a common in fishing, hunting, trapping, boating, pasturing, bathing, wood, water, peat, seaweed, minerals, ice and the like.

16. Such deprivation and diminution:

(a) Denies 5th Amendment equal protection;

(b) Denies 5th Amendment due process;

(c) Violates the commerce clause (Article 1, Section 8, Clause 3);

(d) Entitles plaintiffs members-descendants to redress;

(e) Entitles plaintiffs members-descendants to federal assistance in regaining possession and getting damages.

And further, plaintiffs ask the Court order that:

17. All non-Indian structures, and all installations servicing same such as roads, water mains, disposal systems, telephone and electric lines, fences, barriers, gates, signs and the like be removed forthwith and the land, waters and environment be restored to their original condition, according to plaintiffs' preference.

And finally, plaintiffs ask the Court declare:

18. An award of counsel fees and expenses to plaintiffs pursuant to 42 USC sec. 1988.

19. Such other relief as the Court deems appropriate.

Respectfully submitted,

18 January 1982

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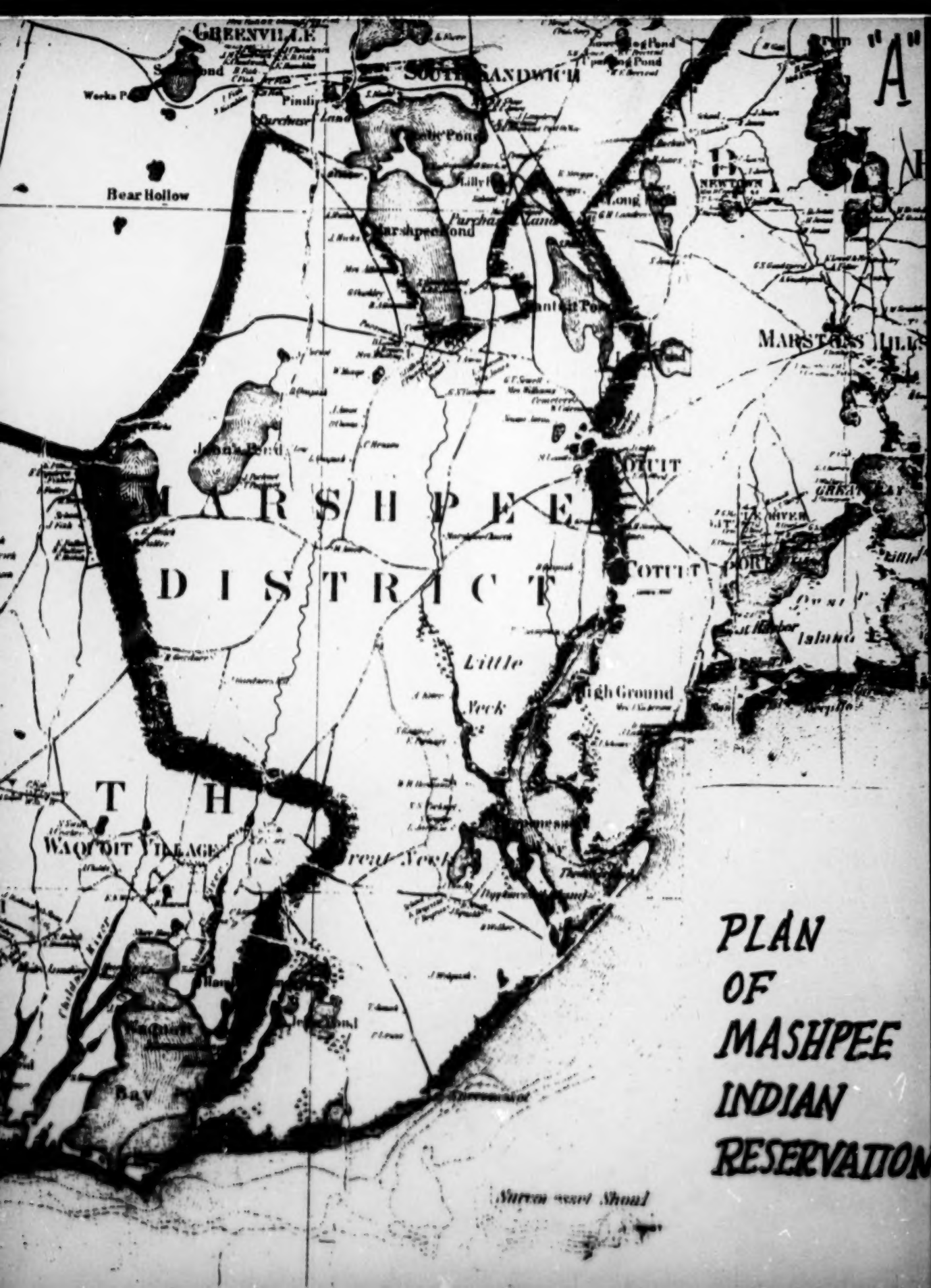
GREENVILLE
SOUTH SANDWICH
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MARSTONS HILLS
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DISTRICT
Little
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High Ground
WAQUOIT VILLAGE
Bay
PLAN
OF
MASHPEE
INDIAN
RESERVATION

"B"

An Act to enfranchise the Indians of the Commonwealth.

Be it enacted, &c., as follows:

Sect. 1. All Indians and people of color, heretofore known and called Indians, within this Commonwealth, are hereby made and declared to be citizens of the Commonwealth, and entitled to all the rights, privileges and immunities, and subject to all the duties and liabilities to which citizens of this Commonwealth are entitled or subject.

Sect. 2. All lands heretofore known as Indian lands, and rightfully held by any Indian in severalty, and all such lands which have been or may be set off to any Indian, shall be and become the property of such person and his heirs in fee simple: *provided*, that such lands, shall not be held liable to be taken upon attachment or execution for any debt or liability which existed before the passage of this act; and all Indians shall hereafter have the same rights as other citizens to take, hold, convey and transmit real estate.

Sect. 3. The judge of probate of the county in which any lands held in common belonging to any tribe of Indians may lie, except in the case of the Indians of Marshpee and Gay Head, upon the application of any member of said tribe, after notice to all parties interested and a hearing of the same, if in his opinion it is for the interest of said parties that any or all of said lands be divided, shall appoint two discreet, disinterested persons commissioners to make partition of the same, and their award, being confirmed by said court, shall be final in the premises; but if he shall adjudge that it is for the interest of said parties that the same, or a part of the same, be sold, he shall direct the said commissioners, after they shall have given such bonds as the court may require, to proceed to sell any or all of said lands, and to divide the proceeds of the same among the parties rightfully entitled thereto in proportion to their several interests therein, under the direction of the said court; and the judge of probate of the county in which any lands heretofore and now known as Indian lands, and claimed in severalty by any Indians, may lie, shall direct the said commissioners to examine and define the boundaries of the lands rightfully held by individual owners, and shall properly describe and set forth the same in writing, and such description being approved by the court, shall be final in the premises; and the same, together with all deeds of partition, division or sale made by such commissioners shall be recorded in the registry of deeds in the county, and the expenses of said commissioners, including the cost of recording said deeds, the same being approved by the judge of probate, shall be paid out of the treasury of the Commonwealth, the same being also approved by the governor and council.

Said commissioners are authorized to sue for, collect and receive all funds belonging to, or held in trust for, any tribe of Indians for which said commissioners are appointed; and all such funds shall be divided by said commissioners among the parties rightfully entitled thereto under the direction of the probate court of the county in which such tribe resides; and any property held in trust by any person for any tribe of Indians shall be sold by such person under the direction of the judge of probate, and the proceeds of such sale shall be paid over to the commissioners to be divided as aforesaid. The judge of probate of Plymouth county shall have jurisdiction over all matters relating to the Herring Pond Indians under this section.

Any person aggrieved by any order, decree or denial of the judge of probate under this act, shall have the same right of appeal, under the same rules and regulations as provided for in chapter one hundred and seventeen of the General Statutes: *provided*, that the attested copies and notices required to be given by said chapter shall be served upon such parties as the judge of probate shall direct.

Sect. 4. Upon the application of the overseers of the poor of any town, to the board of state charities, said board shall make provision in the state almshouses or elsewhere for the support of any persons heretofore known as Indians who may be unable to support themselves, and who have not acquired a settlement in any town; and upon the application of any Indian who has heretofore received aid from the Commonwealth, the said board shall furnish to such person in the state almshouses or elsewhere, such aid as they may deem expedient.

Sect. 5. The general agent of the board of state charities shall take charge of the house, and all property connected therewith, in the town of Webster, belonging to the Commonwealth, and may lease the same to persons heretofore known as members of the Dudley tribe of Indians, upon terms substantially like those upon which they have heretofore occupied it; or he shall, under the direction of the board of state charities, sell the same at public auction, and the proceeds of such leases or sale shall be paid into the treasury of the Commonwealth. [*Approved June* 23, 1869.

"C"

An Act to incorporate the town of Mashpee. *Chap.* 293

Be it enacted, &c., as follows:

District abolished and town of Mashpee incorporated.

Section 1. The district of Marshpee is hereby abolished, and the territory comprised therein is hereby incorporated into a town by the name of Mashpee; and said town of Mashpee is hereby invested with all the powers, privileges, rights and immunities, and subject to all the duties and requisitions to which other towns are entitled and subject by the constitution and laws of this Commonwealth.

Common lands, fishing rights, &c., transferred to town.

Section 2. All common lands, common funds, and all fishing and other rights held by the district of Marshpee, are hereby transferred to the town of Mashpee, and shall be owned and enjoyed as like property and rights of other towns are owned and enjoyed. Any lease held by any party of rights of fishing in Marshpee, made under authority of any law of this Commonwealth, shall continue in force according to the terms thereof, and the rent shall be payable to the treasurer of the town of Mashpee. The town of Mashpee shall succeed to all contracts, rights of action and liabilities of the district of Marshpee, and may sue and be sued in relation to the same.

Warrant to notify meeting for choice of town officers.

Section 3. Any justice of the peace of the county of Barnstable, may issue his warrant, directed to any principal inhabitant of the town of Mashpee, requiring him to notify and warn the inhabitants thereof qualified to vote in district affairs, to meet at the time and place therein appointed for the purpose of choosing all such town officers as towns are by law authorized and required to choose at their annual meetings, and said warrant shall be served by publishing a copy of the same in some newspaper printed in the county of Barnstable, and by posting up copies thereof, attested by the person to whom the same is directed, in three public places in said town, seven days at least before such time of meeting. Such justice, or in his absence, such principal inhabitant, shall preside until the choice of a moderator in said meeting.

At such meeting all inhabitants of said town heretofore qualified to vote in district affairs may vote, and the proceedings at such meeting shall be in accordance with the provisions of the act establishing the district of Marshpee.

Representative, senatorial, &c., districts.

Section 4. The said town shall be and form a part of the same representative, senatorial, councillor and congressional districts as the town of Barnstable until legally changed.

County commissioners may expend $300 annually for repairs of roads, and be reimbursed by state.

Section 5. The county commissioners of the county of Barnstable may, upon application of the selectmen of the town of Mashpee, expend a sum not exceeding three hundred dollars in any one year, from the funds of the county, for the construction and repair of roads within said town, and the sum actually expended shall be reimbursed from the treasury of the Commonwealth.

Court may order common lands to be divided, and appoint commissioners to make partition.

SECTION 6. Any justice of the superior court upon the application of the selectmen of the town of Mashpee, after such notice as the justice may direct to all parties interested and a hearing of the same, if he shall adjudge that it is for the interest of said parties that any or all of the common lands of said town, or of the people heretofore known as the Marshpee tribe of Indians, be divided, shall appoint three discreet, disinterested persons commissioners to make partition of the same, and their award, being approved by the court, shall be confirmed by decree thereof; but if he shall adjudge that it is for the interest of said parties that the same, or a part of the same, be sold, he shall direct the said commissioners, after they shall have given such bonds as the court may require, to proceed to sell at public auction any or all of said lands, and to pay the proceeds of the same to the treasurer of said town; and the said justice shall direct the said commissioners to examine and define the boundaries of the lands rightfully held by individual owners, and to properly describe and set forth the same in writing, and the title and boundaries so set forth and described being approved by the court, shall be confirmed by decree thereof; and the same, together with all deeds of partition, division or sale made by such commissioners, shall be recorded in the registry of deeds in the county, and the expenses of said commissioners, including the cost of recording said deeds, the same being approved by the court, shall be paid out of the treasury of the Commonwealth; the justice may receive the application aforesaid and order notice thereon in vacation as well as in term time, but such other proceedings before the justice as are herein provided for shall be had at a term of the superior court for the county of Barnstable.

Money for support of schools.

SECTION 7. All sums of money payable to the selectmen or treasurer of the district of Marshpee under chapter thirty-six of the General Statutes, for the support of schools, shall hereafter be paid to the treasurer of the town of Mashpee, to be expended in accordance with section four of said chapter.

This section shall continue in force for five years.

Approved May 28, 1870.

D-2

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MASSACHUSETTS

MASHPEE TRIBE, et al.,
Plaintiffs,
v.
JAMES G. WATT, et al.,
Defendants.

Civil No. 81-3205-S

ANSWER

... 33-34. The federal defendants admit that the United States has never terminated the Mashpee Tribe, their community or their Reservation ....

... Dated this 5th day of April, 1982.

Respectfully submitted,

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D-3

A Plume Briar
Size of Old Knife

A

REPORT

TO THE

SECRETARY OF WAR

OF THE UNITED STATES,

ON INDIAN AFFAIRS,

COMPRISING A NARRATIVE OF A TOUR

PERFORMED

IN THE SUMMER OF 1820, UNDER A COMMISSION FROM THE PRESIDENT OF THE UNITED STATES, FOR THE PURPOSE OF ASCERTAINING, FOR THE USE OF THE GOVERNMENT, THE ACTUAL STATE OF THE INDIAN TRIBES IN OUR COUNTRY:

ILLUSTRATED BY A MAP OF THE UNITED STATES; ORNAMENTED BY A CORRECT PORTRAIT OF A PAWNEE INDIAN.

BY THE REV. JEDIDIAH MORSE, D. D.
Late Minister of the First Congregational Church in Charlestown, near Boston, now resident in New-Haven.

NEW-HAVEN:

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1822.

that time, even after the numbers of the natives, during the preceding century, had been greatly reduced."*

In the gradual diminution, and final extinction, of these tribes, who were the terror of the early settlers, we have a melancholy specimen of what has happened in like manner to all the Indian tribes, who once inhabited the territory of New-England, except the few feeble remnants we have enumerated; and of hundreds of other powerful tribes, once spread over the settled parts of our country. And such will be the inevitable destiny of all Indians now mingled among our white population, if a radical change in our treatment of them, be not adopted.

Massachusetts.

All the Indians remaining in this State, reside on their respective Reservations at Marshpee, Herring Pond, Martha's Vineyard and Troy, in the south east part of the State, from fifty to one hundred miles from Boston. The State, by a Board of Overseers, exercises a guardian care over them, as to their lands, and civil rights and privileges; and the corporation of Harvard College, and "The Society for propagating the gospel among the Indians and others in North America," provide for their religious and moral instruction; each having charity funds in its Treasury, appropriated to the benefit of Indians, the former $12,000, the latter, $9,000. A stated missionary is supported at Marshpee, and another at the Vineyard, who, as they have opportunity, visit the other remnants at Herring Pond, and Troy.

No official census of these Indians has recently been taken. They are estimated in our table, at 750, viz; at Marshpee 320; Herring Pond, 40; Troy, 18; the remainder at Martha's Vineyard.

* Mr. Williamson is preparing a history of this State; and from our knowledge of the means he is employing to collect his materials, we anticipate from his pen, a correct and valuable work.

Their lands are held in common, and are unalienable, but with the consent of their overseers.* Some have gardens, and cultivate their lands to a considerable extent and advantage. The wood on their Reservations, pipe clay found on one of them at Martha's Vineyard, and pasturing the cattle of the white people, are sources of income. Many of the young men are employed in the whale and other fisheries, and shew much skill in their employments; and all have at their command, the means in abundance of living in comfort, and even in affluence, if they had but the knowledge, and the dispositions, to use them. Their infirm and aged poor, are considered as foreigners, and taken care of by the State. The Indians are not taxed; have no voice in elections, none of the rights and privileges peculiar to the citizens of the Commonwealth. In this, their state differs from that of the free negro population, who are taxed, and have the right of voting in elections, which many of them regularly exercise, and are eligible to the highest offices in the government; though other than *legal* obstacles, have prevented this sable race from receiving any of the civil honors, or offices of the state, or town, in which they reside.

The following are valuable and pertinent communications from missionaries residing among these Indians. In answer to questions forwarded to Rev. Mr. Fish, the worthy and intelligent missionary stationed at Marshpee, he writes me thus under dates of Feb. 1820, and Jan. 1821.

"I will answer your several inquiries as well as I am able.

1. As to the descent of the Indians of these parts, I believe it cannot be traced at this day. They have altogether adopted the habits of civilized life; of course, have forgotten their ancient names, and indeed their language also, with the exception of a very few individuals, who retain a slight knowledge of it, and are able to converse a little.

2. The number of *pure blooded* Indians is extremely small, say fifty or sixty, and is rapidly decreasing. The mixture of blood

* These overseers are appointed by the government of the State, and their duties are, as guardians of the Indians, to see that they are not mal-treated by the white people, and to advise them in the management of their affairs.

arises far more frequently from connexion with *negroes*, than with *whites*.

3. Professors of religion are considerably numerous. Perhaps there may be *fifty*: composed of Congregationalists and Baptists; a few of whom are eminently pious, considerable numbers decent in their lives, and not a few shockingly profligate. The number of men and women are perhaps nearly equal. The state of morals generally is low. Intemperance, with its concomitants, is found among them as with almost all Indians. They manifest a wish, however, to have their children instructed. Schools are maintained among them at the expense of the plantation; and though increased means of instruction would be desirable, there are few children, who are not taught to read and write.

4. Their territory comprises about 13,000 acres, worth on an average about four dollars an acre; held in joint stock (except what individuals choose to cultivate and enclose, which is theirs, not in fee, but only in tillage) guaranteed to them by the State, managed by a Board of Overseers, appointed by the Governor and Council, and rendered unalienable, except by legislative authority.

5. As to the plan of removing them, *were they in favor of the measure*, it would scarcely be an object. They are of public utility *here*, as expert whalemen and manufacturers of various light articles; have lost their sympathy with their brethren of the forest; are in possession of many privileges, peculiar to a coast, indented by the sea; their local attachments are strong; they are tenacious of their lands; of course, the idea of alienating them and removing to a distance, would be very unpopular. This is evident from the feelings manifested by those whom I have sounded on the subject; I have reason, therefore, to believe the scheme would not take with them.

6. As to the Indians of Marshpee, they are, I think, diminishing, though rather slowly. The proximate cause of diminution is their vices, occasioned, I conceive, chiefly by their concern in whaling, and their unavoidable connexion with whites, whose vices they imitate, particularly the sin which most easily besets Indians, an intemperate use of ardent spirits. If industrious and sober, they might live with the greatest comfort, and be respecta-

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Me. Their connexion with the State, and with those immediately superintending their affairs, is a very happy one, did they but know the things pertaining to their happiness.

7. At Herring Pond, there are not more than forty people of color. Their territory is considerable; but their affairs are embarrassed, and probably at no distant day, Government will see fit to dispose of their land, and perhaps remove them to Marshpee. I preach to them as often as one sabbath in six or seven. They are fourteen miles from this place. Both at Marshpee and Herring Pond, there is a public allowance from the State for schools. A large proportion of their children live in white families, as servants, and then the stipulation with their masters or mistresses always is, that they be taught to read and write, and frequently to manage domestic affairs, or the occupation of their master or mistress."

The Rev. Mr. Thaxter, the venerable minister of Edgarton, on Martha's Vineyard, writes thus, to Rev. Dr. Holmes, Secretary to the Society for propagating the Gospel among the Indians and others in North America.

"There was, early after the settlement of the Island, much pains taken by the *Mayhews* to Christianize the Natives. They were remarkably successful. The Natives of Gay Head made a grant of a large tract of land at Gay Head for the express purpose of obtaining instruction for themselves and their children."* After giving some account of their jealousies and disputes about this land, which they now consider as secure in their own hands, he observes: "Were they possessed of common prudence, such are the advantages they enjoy, they might contribute considerable to their own instruction. They are as jealous of one another, as they are of the white people. Those who have no children will not consent that their overseers shall apply any of their income for the instruction of the children of others. I consider the intruction

* This is a tract of land, probably granted by the Indians of this Island many years ago, to the Society in England, for propagating the Gospel in Foreign parts, to enable that Society to extend the means of instruction among our Indians. The revolutionary war interrupted their operations in this country, which have never since been renewed, and this valuable property, it seems, has reverted to the descendants of the Indians, who gave it.

of these poor creatures an object of importance. I have been acquainted with them for near forty years, and am fully persuaded, that schooling the children ought to be the first object; preaching to them the second. Farm Neck and Christian Town are trifling objects, compared with Gay Head and Chab-aquiddick.† I am often at Chab-aquiddick. They appear thankful for the instruction afforded them. I often admonish them to be attentive; that if they are not, I must report them to the Society, and then they will lose their instructor. They appear to feel it. It is true, we think we see but little good in preaching to these people; did we not take into consideration what evils we probably prevent, who would not be discouraged, and give up the cause, saying, I have labored in vain, and spent my strength for naught? Having put our hands to the plough, we must not look back."

Mr. Baylies, an active and successful Missionary on Martha's Vineyard, 1819, writes to Dr. Holmes: "In my visits (among the Indians on Martha's Vineyard) my feelings are often hurt. *The universal complaint is, "Our children are suffering for want of a school, and we are not able to support one. Can you help us?"* Women schools, superintended by a man, would be productive of great good." "In my schools I had one hundred and thirty-two scholars; one hundred and twenty-two were colored; eleven were married people. In all the schools, I should say, there were one hundred and fifty colored scholars, of both sexes. The Teachers of some of the schools were *colored* men and women. These schools are very pleasing to the Indians." Specimens of writing from seventy of the Indian scholars, left with the Secretary, do great honor to the schools, and furnish good encouragement to their continuance.

Mr. Baylies visited Troy, was well received by the Indians there, forty-eight in number. They have a decent house with two rooms, one for religious worship, the other for a school.

The Legislature of the State has recently granted three hundred dollars to the Indians at Chab-aquiddick, "to build a suitable house for public worship and a school." The house is built and dedicated. The effect on the Indians is happy, and the prospect of future benefit to them promising.

† An Island part of the Vineyard.

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The facts stated concerning the tribes above enumerated, shew the extent and value of several of their Reservations; evince the dispositions, both of the old and young, in regard to schools; the capacities of their youth to receive instruction; their relation to the government of the states in which they reside; their situation as to civil priviliges; their feelings on the subject of a division of their lands and having individual property; of removal from their present places of abode; in regard to the christian religion and its institutions; and the effects of their connexion and intercourse both with the white and black population around them. These results, of long experience, may be of much value to guide in forming plans, and devising measures, to preserve the remaining Indians from extinction.

Rhode-Island.

The only Indians remaining in this State are Narragansetts, at Charlestown, forty miles south-west of Providence, over against Block Island. This tribe, at the period of the first settlement of New-England, was one of the most numerous and powerful in all the country, and were long the terror of the English settlers, and of all the tribes around them. The territory which they occupied was extensive. As late as 1744, they were still so numerous, as that in a remarkable revival of religion, under Rev. Mr. Park of Westerly, sixty-four adults were baptized and received into the Church.* Now, their numbers are but four hundred and twenty-nine. Of these, twenty-two were denominated negroes; the rest are of Indian extraction, but are nearly all, if not every individual, of mixed blood and color, in various degrees and shades. Their territory is reduced to about three thousand acres, the joint property of the tribe, and is estimated to be worth about $50,000 or $60,000.

The Society for propagating the gospel among the Indians and others in N. America, support a missionary, and two schools of about fifty scholars, among these Indians, a part of the year.

* Prince's Ch'n. Hist. for 1744.

STATISTICAL TABLES.

No. I.—*A STATISTICAL TABLE of all the Indian Tribes within the limits of the United States, including a few bordering on our north and south boundaries, related to, or intermingling with them; exhibiting their names, the number of souls in each tribe, the places of their residence, with references to the map, and to the pages of this work, pointing to the places of residence of each tribe, on the one, and to the pages in the other, where they are described.*

	Refer. to Map.	Names of the Tribes.	No. of souls.	P. in rep. and app. each tri. is desc'd. Rep.	App.	Places of Residence and Remarks.
NEW-ENGLAND. Maine.	1	St. Johns Indians	300		84	On St. John's River, Menluctin Point, sixty miles above Fredericktown in N. Brunswick. Supposed to be a mixture of the Esquimaux, with other Indians and white people principally French.
	2	Passamaquoddies	379		65	Pleasant Point, on Scodic r. town of Perry, 5 m. N. of East Port.
	3	Penobscots	277		65	Indian Old town, Penobscot river, 12 m. above Bangor.
Massachusetts.	4	Marshpee	320		68	At Marshpee, 78 m. S. E. Boston, Barnstable Co.
	5	Herring Pond	40		do.	At Sandwich, 14 m. from Marshpee.
	6	*Martha's Vineyard	340		do.	Island on the S. coast of Mass. S. E. of Boston.
Connecticut. R. Isl.	7	Troy	50		do.	In Troy 50 m. S. Boston, Bristol Co.
	8	Narragansett	420		73	In Charlestown 40 m. S. W. of Providence.
	9	*Mohegan	200		74	In Montville, N. London, Co. between N. London and Norwich, on Thames river.
	10	Stonington	50		75	In Stonington, S. E. corner of Connecticut.
	11	Groton	50		do.	In Groton, adjoining Stonington.
		Total in New-England	2,525			
STATE OF NEW-YORK.	12	Montauk Indians	300		75	At Montauk Point E. end of Long-Island, N. Y.
	13	†Brotherton	400	24	76	Near Oneida Lake.
	14	†Stockbridge	438		77, 83	At New-Stockbridge, 7 m. S. of Oneida castle.
	15	†Oneidas	1,031		68	At Oneida castle near Oneida Lake.
	16	Tuscaroras	314		77	At Lewiston near Lake Ontario.
	17	Onondagas	220		323	In Onondaga Hollow, near Onondaga Lake.
	18	Senecas and Onondagas	597		77, 84 87, 93	On the Alleghany river, bordering on Pennsylvania.
	19	do. and Delawares	389		do.	At Cattaraugus, in the county of this name, do.
	20	do. do.	340		77, 84	At Tonewanta, between Batavia and Buffaloe.
	21	do. Cayugas, & Onondagoes	700		77, 84	At Buffalo 3 m. E. of Lake Erie.
		Senecas and a few of other tribes	456		do.	On 5 small Reservations on Genesee river and at Oil Creek.
		Total in New-York	5,184			

*The numbers in these tribes are conjectural; no particular account of them having been received.

†These tribes live within the antient limits of the Oneida Territory.

TABLE IV.—*The number of Schools established for the education of Indians.*

Names of the Tribes, and Schools.	Where located.	When commenced.	By whom—and by whom supported.	No. of scholars.	Allowance of the Gov. of U. States.	Page in Rep. & App. where described.	Remarks.
Passamaquoddies,	Perry, Maine.	About 1821.	Soc. for Prop. Gosp. among Indians N. Amer. & the state and town of Perry.	Not known.	None.	85 Ap.	
Marshpee Indians, Hering Pond, Troy,	Marshpee, Mass. Near Marshpee. Troy, Mass.	These Indians have had schools among them for many years.	By the plantation, the state, the Corporation of Harv. Col. & the Soc. for Prop. the Gospel among Indians of N. America.	Not given.	None.	68 to 71 do.	
Martha's Vineyard,	I. of Martha's Vineyard, Mass.	Early after the settlement of the Island by white people.	By the Mayhews—The state, Plantation, Corp. Harv. Col. & Soc. for prop. Gospel among Indians in N. Am.	150	None.	71	The schools here are taught by men and women, white and colored.
Naraganselts,	Charlestown, R. I.	Many years ago.	For the last 8 or 10 yrs. principally by the Soc. for Prop. Gospel among Indians in N. Am.	50	None.	73	They have two schools.
Mohegans,	Mohegan.	Do.	Formerly by missionaries, latterly by the State.	But few.	None.	74	

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TABLE IV.—CONTINUED.

Names of the tribes and schools.	Where located.	When commenced.	By whom—and by whom supported.	No. of scholars.	Allowance of the Gov. of U. States.	Page of Rep. & App. where described.	Remarks.
Moors Indian School.	Dartmouth College, Hanover, N. H.	1754	Rev. Dr. Wheelock—Society in Scotland for propagating Chris. Knowl.	Suspended.	None.	App. 400.	This school was begun by Dr. Wheelock in Lebanon, Ct. and on the establishment of Dartmouth College, was removed and attached to this institution.
Cornwall,	Town of Cornwall, Con.	May, 1817.	The Am. Bd. Com. for For. Mis.	35	$1428	75 Rep 264 Ap	
Oneidas,	Oneida, N. Y.	Dec. 1829.	The Hamilton Baptist Soc. N. Y.	40 to 50.		88	These Indians have had missionaries & schools among them for many years, supported by the Soc. in Scotland for Propagating Christian Knowledge, Corp. Harv. Col. & Soc. for prop. the Gospel among the Indians, &c.
Stockbridge, of Mohegans,	New Stockbridge, N. Y.	Many years	Soc. in Scotland, & Soc. for prop. Gosp.				

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INDIAN TREATIES,

AND

LAWS AND REGULATIONS

RELATING TO INDIAN AFFAIRS:

TO WHICH IS ADDED

AN APPENDIX,

CONTAINING THE PROCEEDINGS OF THE OLD CONGRESS, AND OTHER IMPORTANT STATE PAPERS, IN RELATION TO INDIAN AFFAIRS.

PRINTED AND PUBLISHED UNDER ORDERS OF THE DEPARTMENT OF WAR OF THE 9TH FEBRUARY AND 6TH OCTOBER, 1825.

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1826.

prove ment, for which they appear to be naturally eminently susceptible. To guard against this evil, so fatal to the race, there ought to be the strongest and the most solemn assurance, that the country given them should be their's, as a permanent home for themselves and their posterity, without being disturbed by the encroachments of our citizens. To such assurance, if there should be added a system by which the government, without destroying their independence, would gradually unite the several tribes under a simple, but enlightened system of government and laws, formed on the principles of our own, and to which, as their own people would partake in it, they would, under the influence of the contemplated improvement, at no distant day, become prepared, the arrangements which have been proposed would prove to the Indians and their posterity a permanent blessing. It is believed that, if they could be assured that peace and friendship would be maintained among the several tribes; that the advantages of education which they now enjoy would be extended to them; that they should have a permanent and solemn guarantee for their possessions, and receive the countenance and aid of the government for the gradual extension of its privileges to them, there would be among all the tribes a disposition to accord with the views of the government. There are now in most of the tribes, well educated, sober, and reflecting individuals, who are afflicted at the present condition of the Indians, and despondent at their future prospects. Under the operation of existing causes, they behold the certain degradation, misery, and even the final annihilation of their race, and no doubt would gladly embrace any arrangement which would promise to elevate them in the scale of civilization, and arrest the destruction which now awaits them. It is conceived that one of the most cheap, certain, and desirable modes of effecting the object in view, would be, for congress to establish fixed principles, such as have been suggested as the basis of the proposed arrangement, and to authorize the president to convene, at some suitable point, all of the well informed, intelligent, and influential individuals of the tribes to be affected by it, in order to explain to them the views of the government, and to pledge the faith of the nation to the arrangements, that might be adopted. Should such principles be established by congress, and the president be vested with suitable authority to convene the individuals as proposed, and suitable provision be made to meet the expenses, great confidence is felt, that a basis of a system might be laid, which, in a few years, would entirely effect the object in view, to the mutual benefit of the government and the Indians, and which, in its operations, would effectually arrest the calamitous course of events to which they must be subject without a radical change in the present system. Should

Indians to be solemnly assured, that the country given them is to be permanently theirs.

System of government to be established.

The formation of effectual these views, if adopted, on the Indians.

Depopulation.

Plan for effecting the proposed arrangement.

President to be vested with authority to call a convention.

Additional sum of $30,000 required

it be thought advisable to call such a convention, as one of the means of effecting the object in view, an additional appropriation of 30,000 dollars will be required; making in the whole, 123,000 dollars to be appropriated.

For the said convention. Whole amount required, $123,000.

All of which is respectfully submitted.

J. C. CALHOUN.

To the PRESIDENT *of the United States.*

DEPARTMENT OF WAR,

Office of Indian Affairs, Jan. 10, 1825.

SIR: I have the honor, herewith, to submit, in compliance with your directions, a table containing a statement of the names of the Indian tribes now remaining within the limits of the different states and territories; the number of each tribe; and the quantity of land claimed by each.

Report of Mr. McKenney, referred to in the preceding report of Mr. Calhoun.

There is no land assigned, as will be seen on reference to the table, to the Indians in Louisiana; yet, it is believed, the Caddoes have a claim, but to what extent is not known. So, also, have the Cherokees, (whose numbers are not known,) to a tract in the northwest corner of the state of North Carolina; which, it is believed, does not exceed 200,000 acres. In New Jersey, Pennsylvania, and perhaps in Maryland, a few Indians are remaining, but how many, or what quantity of land is owned by them, if any, there are no means of ascertaining.

There are now remaining within the limits of the different states and territories, as is shewn by the table, sixty-four tribes and remnants of tribes of Indians, whose "names" and "numbers" are given: who number, in the aggregate, 129,266 souls; and who claim 77,402,318 acres of land.

It will be seen by adverting to the table, that the Indians residing north of the state of Illinois, east of the Mississippi, and west of the lakes, are comprehended in the estimate of the number in Michigan territory; although, in estimating the quantity of land held by Indians in that territory, the portion, only, so held in the peninsula of Michigan, is estimated. It was found impossible, from any documents in possession of this office, to distinguish the number of Chippeways and Ottawas residing in the peninsula of Michigan from those residing on the west side of Lake Michigan. It is, however, believed, that the whole number residing in the peninsula, does not exceed 2,500; and these, as has been stated, are principally of the Chippewa and Ottawa tribes.

It may be proper also to remark, that of the 9,400 Sacs and Foxes who are included in the estimate as part of the 129,266; and who occupy lands on both sides the Mississippi, not more

than one-th rd of that number are supposed to reside on the east side; a d, of the 5,200 Osages, who, by the table, are assigned to M ssouri and Arkansas, it is believed, not more than one-third of that number reside within the state of Missouri and territor · of Arkansas. If, therefore, the number assumed for the p ninsu'a of Michigan, be correct, and two-thirds of the Sacs and Foxes, as is believed to be the fact, reside on the west of the Missi sippi; and two-thirds of the Osages west of Missouri, a I nor h of Arkansas, there will remain "within the limits o the different states and territories,"—confining the Michiga territory to the peninsula—97,381 Indians, possessing, (if t e 200 000 acres, which are believed to be claimed by the Cher kees in North Carolina, be added,) 77,602,318 acres of land

In obtain ng th's information, resort has been had, for the "names" an l "numbers" of the Indian tribes, to the reports to this office, and to other sources of information which are deemed to be the most accurate; and, for the quantity of land claimed by them, to the files of this office; to the general land office; a nd to computations carefully made from the best maps, by Col. Roberdeau, of the topographical bureau.

The 4,000 000 of acres assumed as the quantity claimed by the Cherokees in Arkansas, although but an estimate, is believed to be nearly correct. The precise quantity, however, cannot be ascertained, until it is known how much they ceded on this side the Mississippi, for which, by the treaty of 1817, they are to receive an equal number of acres on the other.

I have the honor to accompany this with a note from Col. Roberdeau, in relation to the difference between his estimate of last year, of the lands claimed in Georgia, and his recent corrected computation of them.

I hav: the honor to be, very respectfully.

Your most obedient servant.

THOS. L. McKENNEY.

To the hon. the secretary of war.

TOPOGRAPHICAL BUREAU.

January 10th, 1825.

Estimate of the quantity of lands owned by the Cherokees and Creeks in Georgia.

The quantit: of land in the state of Georgia, not ceded to the United St tes by Indians, was, last year, reported at 10,240,000 squar acres; upon a review of the calculations, and having more correct documents than were then referred to, the whole quantity in the state appears to be 9,537,920 acres, of which 5,292,160 are of the Cherokees, and 1,245,760 of the Creeks, as nearly as can be computed.

I. ROBERDEAU,

Lt. col. Top. Engineers.

Col. Thos. L. McKenney.

Indian department.

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STATEMENT, showing the Names and Numbers of the different Tribes of Indians now remaining within the limits of the several States and Territories, and the quantity of land claimed by them respectively.

Names of the tribes.	States or territories in which located.	Numbers of each tribe.	Number in each state or territory.	Number of acres claimed by each tribe.	REMARKS.
St. John's Indians	Maine	500			No information as to their lands.
Passamaquoddies	do	379		100	
Penobscots	do	277		92,160	
			956		
Marshpee	Massachusetts	320			All the Indians in this state reside on their respective reservations, at the places by which they are designated. The quantity of land occupied by them is not known, nor is there any information in this office by which it can be ascertained.
Herring Pond	do	40			
Martha's Vineyard	do	340			
Troy	do	50			
			750		
Narragansett	Rhode Island		420	3,000	
Mohegan	Connecticut	200		4,000	
Stonington	do	50		300	
Groton	do	50			No information as to their lands.
			400		
Senecas	New York	2,328			
Tuscaroras	do	252			
Oneidas	do	1,196			
Onondagas	do	448			These Indians own and possess together seven reservations of land, containing in the whole, according to the report of the agent, on file in this office, about the number of acres stated.
Cayugas	do	90		246,673	
Stockbridge	do	273			
Brotherton	do	269			
St. Regis Indians	do	560			
			5,143		
Nottaways	Virginia		17	17,640	
Catawbas	S. Carolina		430	144,000	

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STATEMENT—Continued.

Names of the tribes.	States or territories in which located.	Numbers of each tribe.	Number in each state or territory.	Number of acres claimed by each tribe.	REMARKS.
Ihoways	Missouri	1,100			No information as to the lands claimed by these Indians.
Osages	Missouri & Arkansas ter.	5,200		7,401,920	The Osages reside chiefly in Missouri [illegible] portion west of both. Of the lands stated as claimed by them, 2,747,920 acres are in the former, and 782,920 acres in the latter.
Pianksheaws	do	207			No information as to their lands.
Cherokees	[illegible] ter.	6,000		4,000,000	The Cherokees claim about this quantity of land in this territory, under treaties of 1817 and 1819; the precise quantity not yet ascertained.
Quapaws	do	700			These Indians have recently sold out all their claim, and are about to remove beyond the limits of the territory.
Choctaws	do			8,858,560	Very few or none of this tribe reside in the territory; but they claim in it the quantity of land stated under the treaty of 15th Oct. 1820.
			13,917		

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RECAPITULATION.

States and territories.	Whole number of Indians.	Whole quantity of land claimed. Acres.	REMARKS.
Maine	936	94,000	
Massachusetts	750		
Rhode Island	420	3,000	
Connecticut	400	4,300	
New York	5,143	216,675	
Virginia	47	27,000	
N. Carolina	450	144,000	
Ohio	2,230	409,501	
Michigan terr.	28,316	7,057,920	The number of Indians embraces those in the country west of Lake Michigan, as well as those in the peninsula of Michigan; the information being such as not to admit of a separate enumeration.
Indiana	11,379	10,104,000	Some of the Indians claiming lands in these states reside partly in both; the particular number in either cannot therefore be stated.
Illinois		3,214,400	
Georgia		9,527,920	
Alabama	53,025	7,[illegible]5,[illegible]76	The Indians claiming lands in these states, do not all reside in any one of them, except the Chickasaws; and it cannot therefore be stated what is the particular number residing in each state.
Tennessee		1,[illegible]53,[illegible]80	
Mississippi		13,[illegible]43,[illegible]80	
Florida terr.	5,000	4,032,640	
Louisiana	1,313		
Missouri	18,917	2,782,720	The Osages and Pianksheaws are scattered in Missouri and Arkansas, and most of the former beyond the limits of either; it cannot therefore be stated what is the particular number of Indians in either.
Arkansas terr.		12,812,280	
	129,386	77,[illegible]81,216	

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DEPARTMENT OF WAR, Office Indian affairs, Jan. 10, 1828.
THOS. L. M'KENNEY.

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23d CONGRESS, 1st Session. [Rep. No. 474.] H. OF REPS.

RECOGNITION

REGULATING THE INDIAN DEPARTMENT.

[To accompany bills H. R. Nos. 488, 489, & 490.]

MAY 20, 1834.

Mr. H. EVERETT, from the Committee on Indian Affairs, made the following

REPORT:

The Committee on Indian Affairs, to which was submitted so much of the President's message as relates to Indian affairs, &c., submit the following report, to accompany the bills by them reported, entitled,

"A bill to provide for the organization of the Department of Indian Affairs."

"A bill to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers." And,

"A bill to provide for the establishment of the Western Territory, and for the security and protection of the emigrant and other Indian tribes therein."

The various subjects submitted to the committee, during the present session, have forced upon their consideration the present state of our Indian affairs, in its three principal relations—the organization of the department; the regulations of trade and intercourse; and the obligations of the United States to the emigrant tribes. These relations, though subjects of different bills, are intimately connected. They are parts of a system; and of a system which is, itself, also, intimately acquainted with the general legislation of the country. They have, therefore, deemed it proper to present, in the same report, their views on the subjects embraced in the several bills.

The committee are aware of the intrinsic difficulties of the subject—of providing a system of laws and of administration, simple and economical, and, at the same time, efficient and liberal—that shall be suited to the various conditions and relations of those for whose benefit it is intended; and that shall, with a due regard to the rights of our own citizens, meet the just expectations of the country in the fulfilment of its proper and assumed obligations to the Indian tribes. Yet, so manifestly defective and inadequate is our present system, that an immediate revision seems to be imperiously demanded. What is now proposed is only an approximation to a perfect system. Much is necessarily left for the present to Executive discretion, and still more to future legislation.

The Indian country, to which the bills reported refer, will include all the territory of the United States west of the Mississippi, not within Louisiana,

[Gales & Seaton, print.]

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TABLE 3.—*The tribes east of the Mississippi, and below N. lat. 46°, who have not yet agreed to remove west of the Mississippi.*

Names.		Numbers.	Remarks.
Indians of	New England	2,526	
"	New York	5,774	
"	Virginia	47	
"	South Carolina	450	
Tribes.	Wyandots, O.	527	
"	Ottawas, O.	250	
"	Miamies	1,100	
"	Menomonies	2,143	
		12,817	
"	Chippewas, M. T.	3,000	These Indians have been provided with a home west of the Mississippi, when they choose to remove to it.
"	Ottawas, do		
"	Winnebagoes	4,391	
"	Cherokees, east, in the States of Tennessee, North Carolina, Georgia, and Alabama	10,000	
	Total,	30,408	

TABLE 4.—*This table exhibits a summary and digest of what has been presented in the preceding tables.*

Tribes.	Numbers.	Square miles.	No. of acres.
Indigenous tribes west of Missouri	22,496	49,220	31,500,800
Indigenous tribes north of Missouri and their lands, including the Winnebago country	5,602	17,652	11,304,000
Emigrant Indians	25,837		
The Indians who have agr'd to emigrate, or submit to State laws	41,466	83,603	53,506,000
The Indians that have lands assigned them west of the Mississippi, but have not yet agreed to remove to them	17,591		

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TABLE IV—Continued.

Tribes.	Numbers.	Square miles.	Acres.
The Indians in the several States who have not yet agreed to remove, and to whom no lands have been assigned - - -	12,817		
Unappropriated lands west of Missouri and W. long. 17° 30′ to 23° - -	-	52,777	33,771,180
Unappropriated lands north of the State of Missouri	-	1,680	1,075,200
	125,806	201,342	128,859,280

The estimates in the foregoing tables are made up from the best sources of information. As it respects the number of souls in the different tribes, it will probably be found too high rather than too low, as the Indians generally have been greatly overrated. The quantity of land stated to belong to them, in cases of the emigrant Indians, is fixed by treaty stipulations, and therefore, accurately given; that of the indigenous tribes is only a general estimate, but it is believed it will fall within rather than overrun the real quantity claimed by them.

From the exhibit as presented by the tables, it appears that the whole number of Indians intended to reside in the Indian territory, (should all below N. lat. 46° remove from the east to the west of the Mississippi,) will amount to 125,806 souls; and the quantity of land set apart for them is 201,342 square miles! that is, more than one and a half square mile to every soul. And even the emigrants have assigned to them a country, equal, on an average, to a square mile for every individual. So that it is presumed there can be no question but that they have a sufficient quantity secured to them for their accommodation.

The commissioners accompany this report with a map of the Indian country; which, although it may not be found perfectly accurate, yet it is more so than any other published, and will serve to exhibit the relative position of the several nations, and the boundaries of their respective countries. In the appendix, C, will also be found a particular description of the boundary lines of their lands, with a few general remarks concerning them. The above description and the map will point out where the unappropriated land, amounting to 54,451 square miles, is situated; and the commissioners will now suggest how it can be disposed of, in order to accommodate those Indians still east of the Mississippi for whom no provision has yet been made, or any others whom it may, hereafter, be deemed important to settle on the Missouri river.

The lands from Red river to the north line of the Osage, Quapaw, and Seneca countries, have all been assigned; and the first district of unappropriated lands is between this line and the lands of the Weas, Shawnees, and Kanzas, and is estimated to contain 20,252 square miles, or

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HISTORICAL

AND

STATISTICAL INFORMATION

RESPECTING THE

HISTORY, CONDITION AND PROSPECTS

OF THE

INDIAN TRIBES of the UNITED STATES.

Collected and prepared under the
direction of the BUREAU OF INDIAN AFFAIRS per act of Congress
of March 3rd 1847.

BY HENRY R. SCHOOLCRAFT L.L.D.

Illustrated by
S. EASTMAN, CAPT. U. S. ARMY.

MASSACHUSETTS STATE LIBRARY.

Published by authority of Congress.

Part I.

PHILADELPHIA:

LIPPINCOTT, GRAMBO & CO.

7. ULTIMATE CONSOLIDATED TABLES OF THE INDIAN POPULATION OF THE UNITED STATES.

Names of Tribes.	Number in Tribe.	Total Population.
TABLE I.—Tribes whose Vital and Industrial Statistics have been taken by Bands and Families, under the direction of the Act of Congress.		
A. Iroquois Group	5,922	
B. Algonquin Group*	17,197	
C. Dacota Group*	6,570	
D. Appalachian Group*	5,015	
		34,704
TABLE II.—Tribes of the new States and Territories South and West, including the Acquisitions from Mexico under the Treaty of Guadalupe Hidalgo.		
A. Indian Population of Texas	24,100	
B. Indian Population of New Mexico	92,130	
C. Indian Population of California	32,231	
D. Indian Population of Oregon	22,733	
E. Indian Population of Utah	11,500	
F. Indian Population of Florida	348	
		183,042
TABLE III.—General Schedule of the Tribes located East of the Rocky Mountains and the Line of the Mississippi, in high northern latitudes; all of whom, together with those named in Table No. 2, remain to be enumerated, under the operation of the Indian Census in progress.		
Alabamas. (See *Muskogees.*)		
Assinaboins, south of lat. 49°	1,000	
Apaches. (See *Texas, New Mexico,* and *Utah.*)		
Arapahoes	3,500	
Absarokes, or Crows	4,000	
Aurickarees	1,500	
Blackfeet	15,000	
Blood Indians (few reach the Missouri)	500	
Brothertons	600	
Cherokees	26,000	
Creeks	25,000	
Chickasaws (not enumerated)	5,000	
Choctaws	16,000	
Comanches. (See *Texas.*)		
Cheyennes	2,500	
Carried forward	98,600	217,746

Names of Tribes.	Number in Tribe.	Total Population.
Brought forward	98,600	217,746
Caddoes	2,000	
Chippewas. (See *Algonquin Group.*)		
Chippewas, west, and Red River, north	1,500	
Crees. (None in the United States.)		
Chawas. (See *Cheyennes.*)		
Cayugas. (See *Iroquois Group.*)		
Cayugas and Iroquois, west	30	
Diamondallies. (See *Wyandotts.*)		
Dacotas. (See *Sioux.*)		
Delawares	1,500	
Eutaws. (See *Utahs.*)		
Foxes and Sacs	2,100	
Folle Avoines. (See *Menomonies.*)		
Florida Indians. (See Table 2.)		
Flatheads. (See *Oregon.*)		
Grus Ventres	3,000	
Green Bay Indians. (See *Menomonies* and *Oneidas.*)		
Iowas. (See *Dacota Group.*)		
Kiowas	2,000	
Kickapoos	600	
Kunzas	1,600	
Kaskaskias	200	
Menomonies	2,500	
Mandans	300	
Minitarees	2,500	
Miamies	500	
Missouris	500	
Mohawks. (See *Iroquois Group.*)		
Munsees	200	
Ottowas. (See *Algonquin Group.*)		
Ottowas, west	300	
Otoes	500	
Omahas	2,000	
Oneidas. (See *Iroquois Group.*)		
Onondagas. (See *Iroquois Group.*)		
Ogallahs	1,500	
Pawnees	17,000	
Poncas	700	
Pottawatomies	3,200	
Peorias	150	
Piegans. (See *Satsika, Blood,* and *Blackfeet.*)		
Piankeshaws	200	
Carried forward	145,480	217,746

* The census, in these groups, has been carried no farther, but is in progress.

Names of Tribes.	Number in Tribe.	Total Population.
Brought forward.....	145,480	217,746
Quappas.....	400	
Ricarees. (See *Aurickarees.*)		
Shawnees.....	1,600	
Sioux of the Mississippi (not enumerated in No. 1).....	9,000	
Sioux of the Missouri (not enumerated in No. 1).....	5,500	
Soniks. (See *Blackfeet*, &c.)		
Stockbridges.....	400	
Senecas. (See *Iroquois Group.*)		
St. Regis Tribe. (See *Iroquois Group.*)		
Seminoles.....	1,500	
Senecas and Shawnees. (See *Iroquois Group.*)		
Swan Creek and Black River Chippewas (not enumerated in Algonquin Group).....	200	
Snakes. (See Table 2.)		
Shoshonees. (See Table 2.)		
Tetans.....	3,000	
Tonewandas. (See *Iroquois Group.*)		
Utahs. (See Table 2.)		
Wyandots. (See *Iroquois Group.*)		
Winnebagoes. (See *Dacota Group.*)		
Weas.....	250	
Yanktons. (See *Sioux of the Missouri.*)		
		167,330
TABLE IV.—Fragmentary Tribes still existing within the Boundaries of the old States.		
MAINE—		
Souriquois of St. Johns.....	300	
Passamaquoddies.....	379	
Penobscots.....	277	
	956	
Carried forward.....		385,076

Names of Tribes.	Number in Tribe.	Total Population.
Brought forward.....	956	385,076
MASSACHUSETTS—		
Marshpee.....		
Chippaquadic.....		
Christiantown.....		
Gay Head.....		
Assonets of Troy or Fall River.		
Herring Pond.....	847	
Hassanamico.....		
Punkapog.....		
Natic.....		
Dudley.....		
Grafton.....		
Yarmouth.....		
[All mixed with the African race but 8 or 10.]		
RHODE ISLAND—		
Narragansetts.....	420	
CONNECTICUT—		
Mohegans at Mohegan.....	300	
Mohegans at Stonington.....	50	
Mohegans at Groton.....	50	
NEW YORK—		
Iroquois. (See *Iroquois Group.*)		
Algonquins, not enumerated in Algonquin Group.....	40	
VIRGINIA—		
Nottoways, mixed with the African race.....	40	
SOUTH CAROLINA—		
Catawbas.....	200	
NORTH CAROLINA—		
Catawbas.....	250	
Cherokees. (See Table 1.)		
Total in old States.....	3,153	3,153
Grand Total.....	.....	388,229

[There may, in addition to these numbers, be from 25,000 to 35,000 Indians, within the area of the unexplored territories of the United States.]

HENRY R. SCHOOLCRAFT,

Agent Census, &c., Act of March 3, 1847.

APPROVED,

L. LEA,

Commissioner Indian Affairs.

OFFICE INDIAN AFFAIRS,
JULY 22, 1850.

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SENATE..... .....No. 96.

REPORT

TO THE

GOVERNOR AND COUNCIL,

CONCERNING THE

Indians of the Commonwealth,

UNDER THE ACT OF APRIL 6, 1859.

By JOHN MILTON EARLE,
COMMISSIONER.

BOSTON:
WILLIAM WHITE, PRINTER TO THE STATE.
1861.

Commonwealth of Massachusetts.

EXECUTIVE DEPARTMENT, COUNCIL CHAMBER,
BOSTON, March 9, 1861.

To the Honorable the House of Representatives:—

I herewith transmit for the information of the General Court, the Report concerning the Indians domiciled in this Commonwealth, made by the Commissioner appointed in accordance with the provisions of chapter 266 of the Acts of the year 1859.

JOHN A. ANDREW.

with even paternal solicitude, counselling them in their need, adjusting disputes between them and their white neighbors, and between each other, with many other acts of kindness of various kinds, for all which, he has constantly refused any compensation from them. This unselfish kindness has endeared him to them, and won their entire confidence, so that he has an influence with them that none other can possess, and, when he is gone his memory will be cherished as a benefactor, and none, it is feared, will be left to fill the place vacated by him.

Since my Report was completed, I have ascertained that the annual grant of sixty dollars to the Gay Head school for five years, expired in 1859, and, believing that the reasons which prompted its first appropriation have acquired increased force, and will commend themselves to the legislature, I have reported a resolve for extending the grant for another term of ten years.

MARSHPEE TRIBE.

The District of Marshpee, the residence of the largest distinct body of the descendants of the Indians, now remaining in the State, is situated on Cape Cod, in the westerly part of Barnstable County, and is bounded on the north by Sandwich and Barnstable, on the east by Barnstable, on the west by Falmouth, and on the south by the waters of the Vineyard Sound. The whole number of the tribe, so far as is ascertained, is 403.

Families,	93
Males,	186
Females,	216
Unknown,	1
Natives,	371
Foreigners,	32
Under 5 years of age,	50
From 5 to 10 years of age,	44
" 10 to 21 years of age,	97
" 21 to 50 years of age,	146
" 50 to 70 years of age,	46
Of 70 and over,	20

Of those who are 70 or over, six are 70 years old, one is 71, one is 74, four are 75, three are 76, two are 77, one is 87, and two are each 93 years of age. The two oldest persons are Lois Pells and Betsy Smith, both widows.

It appears by a statement made before a committee of the legislature in 1834, by Hon. Benj. F. Hallett, counsel for the tribe, that their population in 1767 was two hundred and ninety-two; in 1771, it was three hundred and twenty-seven, of whom fourteen were negroes, married to Indians; in 1832 it was three hundred and fifteen, of whom sixteen were negroes. By the commissioners' report in 1849, it was three hundred and five in 1848, of whom twenty-six were foreigners, all negroes or mulattoes; in 1859, the tribe numbered, as will be seen by this report and the accompanying tabular list, four hundred and three, including thirty-two foreigners, married to natives of the tribe, all negroes or mulattoes, or various mixtures of negro, Indian, or white blood—none of them being pure whites. Sixty-six, out of the whole number of the tribe, at the time of the enumeration, were not residents of the District; but fifty-two of them were considered as retaining their rights in the tribe, and more than half of the sixty-six were understood to be only temporary residents abroad, expecting, at some time, to return to Marshpee, and make it their permanent place of residence. A few others, as a matter of personal convenience, are now residing just over the line, and are so returned, but they consider themselves as identified with the tribe in all respects, and are so considered by the tribe. Fourteen individuals, included in the above sixty-six, whose names are in the "Supplementary List," own no land in the District, but have been gone so long from it, that they are not now recognized by residents as members of the tribe.

In this tribe, as in several of the others, the mortality, within the eleven years preceding, and including the autumn of 1859, was very great. The commissioners' list made in 1848 gives the names of three hundred and five persons, and of these, ninety-two, or 30 per cent. of the whole number were dead in 1859. The number of births during that period, and of deaths of those born within the time, are not known. But there were one hundred children living in 1859, who had been born since the commissioners' report, being an excess over the deaths of only eight. The additional excess in numbers, of the present

return over that of 1849, consists of persons whose names are not on that return. It is much to be regretted that no provision exists for a registration of the Indian tribes. This is a manifest defect in our law. The value of statistics consists chiefly in their accuracy and completeness, and it seems strange, when so much pains has been taken to perfect our system of registration and to publish the results, that this portion of it should have been overlooked or neglected. It is necessary to the completeness of the system, and if extended to the several tribes, would be valuable, as affording the means of interesting comparisons of the vital statistics of the tribes with those of the other people of the State, and would be an essential aid in any future investigations into their condition, &c. It is therefore earnestly recommended that the registration, in some form, should be extended to all the tribes.*

The whole District of Marshpee has an area of over sixteen thousand acres, comprising

Indian lands held in severalty, acres,		10,231½
" (upland), in common,		2,300½
" Parsonage,		450
" Cedar swamps,		250
" Salt and fresh meadows,		150
Total Indian lands,		13,382
Marshpee and Wakeby Ponds, acres,	850	
John's Pond,	350	
Cotuit, or Santuit Pond,	250	
Ashumete Pond,	200	
Aggregate area of these ponds,		1,650
Land held by whites, estimated at		700
Roads, rivers, and small ponds,		400
Whole area, acres,		16,132

A large proportion of the District is light, sandy, and barren, nearly destitute of water, and is of little value except for wood-

* Rightly construed, the Registration Law probably applies as well to Marshpee as to other portions of the State; but it does not appear to be so understood by the officers of the District.

land; and the growth of wood is comparatively small and stinted. Formerly, most of it was covered with a growth of wood, which, if it had been properly husbanded, would have been an unfailing source of revenue to the tribe, sufficient to place them beyond the reach of want for the support of their poor and all other municipal purposes, and would, beside, have given all the inhabitants an adequate supply of fuel; but, by the Act of March 2, 1842, provision was made for the division and distribution of this domain, so that each legal adult proprietor, male or female, each of the children of such proprietors, and every person of Indian descent, who was born within Marshpee, or within the counties of Barnstable or Plymouth, and who had resided, or whose parents had resided in Marshpee for twenty years or upwards, previous to the Act of 1834, by which the District was constituted, should receive sixty acres of land in severalty, including what each proprietor had previously occupied. The provisions of this Act were substantially carried out in the division which ensued. A large proportion of the land, thus divided, was covered with wood, as already indicated. An idea of its value may be formed, from the fact, that the wood on the parsonage lot, containing only four hundred and fifty acres, was sold in 1845, and the sum of $6,950 was realized from the sale, averaging over fifteen dollars an acre for the whole lot. Almost the whole of the wood that was standing on the land, when it was divided, is gone, and the people have nothing to show for it. The noble patrimony has wasted away, and the whole property of the District, real and personal, would not sell for as much money, now, including buildings and improvements, as the wood on the land was worth when it was divided; and it is doubtful whether a large proportion of the families are as comfortably situated, as well provided for, and in as good a condition to meet their future wants and necessities, as they would have been, had no more been divided to each, than would be sufficient for cultivation and to give them a suitable supply of fuel for their own use. Relying on the sale of their wood, to procure whatever they might want, agriculture was neglected, idle and improvident habits were acquired, and a general unthriftiness ensued, that pervaded the whole District. The marks of this are strikingly apparent at the present day, exceeding any thing of the kind to be found

on either of the other plantations, with perhaps the single exception of the few families on the Fall River reservation. The new growth of wood, which was coming up on most of the allotments, as well as that on the parsonage lot, which had attained considerable size, has, to a great extent, been destroyed by fires that have, within two or three years, burnt over about five thousand acres of woodland in the District. This calamity falls with peculiar severity on several widows with dependent families, to whom this was almost their only resource. The lesson which the people are now taking is a severe one, but it may be worth its cost, and, if it shall teach them wisdom for the future, they will not have suffered in vain.*

It will have been seen, that sixteen hundred and fifty acres, or more than one-tenth of the whole District, is occupied by ponds of fresh water, without including some of minor size. These afford fine fishing, and are a source of some public

* At the present day, and in the light which subsequent events have thrown on this matter, it is difficult to imagine what influences could have operated on the legislature, to induce it to sanction such an Act, as that which authorized the distribution of the Marshpee lands, or how it could have failed to perceive what consequences must almost inevitably flow from it. Here was a people held in a state of pupilage, under a *quasi* guardianship, forbidden by law to transfer a foot of their land to any but a proprietor of the District, without authority of the legislature—not allowed, even in their collective capacity, by a vote of the whole body, to appropriate a dollar for any public purpose, without the consent of the commissioner—a people, who, by being subjected so long to these restrictions and disabilities, had, to a great degree, lost self-respect and self-reliance, and become, from disuse, unaccustomed to pecuniary responsibility, or the proper management of prudential concerns. Under this law, nearly every married couple among them received one hundred and twenty acres of land, with sixty acres more for each and every child they had; and thus a property was at once placed at their disposal, in the wood growing on the land, of many times the value of the naked land, which the law did not permit them to sell. Without any training to a prudent forecast, having never had the opportunity of acquiring the habit of husbanding their resources; and, accustomed, as they were, to live from hand to mouth, this looked to them like a fund that could never fail, and it is not strange that even the best of them should yield, to some extent, to the temptation to rely on that, rather than their own efforts, for a living, and that the neglect, waste and improvidence ensued, which they have so much reason to deplore. Yet, in truth and justice, we are bound to say, that they, who had the power to prevent it and yet authorized it to be done, are more inexcusable, than are the unfortunate sufferers of the folly.

revenue. Marshpee and Wakeby Ponds are substantially one, being united by a very broad, deep strait, and present one of the finest sheets of fresh water to be found in the State. Situated in a sandy region, with but little soil or vegetable matter washed into them, to make mud or sediment, much of the shore, for a considerable distance into the water, is nearly a pure white sand and gravel, and the water of such remarkable purity and clearness, as to render every thing distinctly visible at the bottom, almost as much as if there was no water there. Being almost entirely supplied by springs, the water is of a very equable temperature both in summer and winter, and affords a congenial home for large quantities of the finest trout that can any where be found. At the outlet, a stream, sufficiently large to operate a mill, is constantly discharged. This finds its way to the sea, a distance of some eight or ten miles, over a bed of the same kind of sand and gravel as that of which the shores of the ponds are composed. Most of the way, the stream is somewhat rapid, with occasional quiet pools, affording to the trout a desirable and agreeable egress from the ponds to the sea, which is their principal feeding-ground. Here they become very fat, and attain an enormous size, often weighing from three to six pounds, and sometimes reaching eight or ten pounds. No other trout in the market are considered equal to them, or command so high a price. In their passage to and fro, between the ponds, which are their place of residence, and the sea, where they take their meals, the little river is alive with them throughout its whole course, and the sport, thus afforded to the fishermen, is indescribably fine. This fishery is a perquisite of the tribe, and no other person is allowed to fish in the stream without a permit from the proper officer, for which permit a fee of five dollars a day is required for each person. The amount received from the sale of these permits varies from one hundred and fifty to three hundred dollars a year. Between the times of my first and second visit to the District, two young men from a neighboring town obtained permits for two days, during which time they caught over one hundred and seventy pounds of these fine trout, realizing, at a low market value, two or three times the amount paid for their permits. The pickerel fishery, in the ponds, is also very good, and this, too, is a source of some revenue to the tribe. The herring

fishery, during its season, is usually abundant, the river and ponds being a favorite resort for them, and, though it brings no public revenue, it is a source of some private emolument, and furnishes a liberal supply of a favorite and convenient article of provision, for the use of all the families who choose to avail themselves of it, throughout the year. The season of 1859 was as good as usual, though the run was generally small at other places in that region.

The extensive tracts of woodland, here, reaching into Sandwich and Barnstable, and perhaps into Plymouth, afford a home and shelter to considerable numbers of deer, this being the only place in the State, except perhaps Naushon Island, where they have never been exterminated. The hunting of them has heretofore been a subject of legislative enactment, and, now that the destruction of the wood by fire on so extensive a tract, has circumscribed their range, and, in the same proportion increased the facilities of the huntsman for pursuing them, it is much to be feared, that, without some stringent statutory provision for their protection, they will at no very distant day become extinct in this region.

By the Act of 1834, constituting Marshpee a District, the organization is similar to that of towns, the proprietors electing their clerk, selectmen, (who are also overseers of the poor, surveyors of highways, and school committee,) and one or more constables, and voting the amount necessary for the support of the poor and their medical attendance, the repair of highways, the support of schools, and other necessary District charges. These several officers have duties corresponding to those in towns. In addition to these officers, it provided that there should be a commissioner, appointed by the governor and council, who must be a resident of Barnstable County, in the vicinity of the District, whose duty it was "to exercise a careful supervision over the affairs of said District" and to preside at all meetings of the proprietors, with the powers of moderator. All rules and regulations for the management of the public domain, and all appropriations for any public purpose, must receive his sanction to make them valid. By virtue of his office, he was treasurer of the District, and of the Herring Pond Indians, and, as such, was required to give bonds to the satisfaction of the governor and council for the faithful performance of his trust. He was

also required to report annually to the governor and council, for final settlement, an account of the receipts and disbursements of the treasury, with his own charge for necessary services, countersigned by the selectmen of the District, with their approval or disapproval of the same. By the Act of 1853, (chap. 186,) the office of Commissioner of Marshpee was abolished, and the office of Treasurer of Marshpee was established, to be also treasurer of the Herring Pond Indians, and he was required annually to report to the governor and council for settlement, an account of all receipts and disbursements, to be countersigned by the selectmen of Marshpee, and some person appointed by the Herring Pond Indians for the purpose, with their approval or disapproval of the same. By the same Act, the District was authorized to choose its own moderator, and to select its own officers, for the performance of all the duties heretofore devolving on the commissioner, so that it now enjoys all the rights of towns, except that of representation and the election of its treasurer.

The Act of 1842 empowers the proprietors to assess taxes for the purposes of the District, but the provision is practically nugatory, for the want of power to enforce their collection. The experiment, when tried, has utterly failed and had to be abandoned. About one-half of the residents paid their taxes, and the remainder refused or neglected to do it, and, as there was no power to levy on the land and sell it for the taxes, there was no remedy. When the public hearing was held at Marshpee, a strong feeling prevailed in favor of a grant of the necessary power for this purpose. But it is not seen how it could be exercised, consistently with the settled policy of the State in reference to the Indians, as, by existing laws, none of the territory can be alienated and pass into the hands of others than proprietors, and there are now, hundreds, if not thousands of acres of land in the District, which could be bought for a price almost nominal, yet find no purchaser, because such proprietors as are able to buy, already hold in severalty more land than they have any occasion for. There would, consequently, be no purchasers. If provision were made that others might become purchasers, it would initiate a vital change in the policy of the State, and lead to a gradual, but certain alienation of a consid-

erable portion of the lands of the tribe, whose owners would, probably, in that event, be thrown upon the public for support.

The organization of the District has unquestionably been advantageous to the tribe, in preparing them gradually for the change which must eventually come, in their political relations, when they shall be endowed with the rights of citizenship, with the duties, responsibilities, and obligations it imposes. It took away one ground of complaint, by enabling them, substantially, to manage their own affairs. In the same way it encourages their self-respect and adds to their feeling of individual responsibility. Their town meetings are, to them, what such meetings are to our country towns—schools which bring into exercise talents that otherwise might have lain dormant, and aid in better preparing them for other responsible duties. It is said that at some of the town meetings, the discussions are very animated, and are marked by considerable ability. At the public hearing given by the Commissioner at this place, the debates on the subjects introduced were as well conducted as similar debates are in any of our towns, and some of the speakers acquitted themselves very creditably. One of them, in particular, evinced much native humor and a fertility and aptness of illustration rarely equalled, indicating natural talents, that, with the advantages of an education, would have qualified him to shine in any station of life.

The expenditures of the District are, for the support of the poor, of the schools, and the highways, the pay of public officers, the treasurer's salary, and contingent expenses. These amounted, for the year ending September 30, 1859, to $2,398.02, but, in this amount is included between $700 and $800 for making new county roads through the District, the most of which expense was refunded by the State. The number of paupers in the District, dependent for their entire support, is seven, of whom three are State paupers, for whose support the District received in 1859 $189.85. The annual payments by the State, for the support of State paupers, for the last eleven years, have been as follows:—

1849,	$389 75	1856,	$212 00
1850,	299 45	1857,	117 00
1851,	247 69	1858,	147 18
1852,	436 62	1859,	189 85
1853,	426 52		
1854,	392 00		
1855,	273 84		$3,131 90

The average amount for the eleven years has been $284.72. For the six years preceding 1849, the average payment by the State for the same purpose was $359.24, while, for the six years last past the average has been only $187.97, or but a trifle more than one-half the average of the former period. The annual expense of the paupers of the District including payments for those who receive assistance as well as those requiring entire support, is about $400 per annum.

For the support of the schools of the District, formerly, $100 a year was appropriated from the school fund and $60 a year additional was received, as the interest of $1,000, which was set apart as the District's portion of the surplus revenue, making, in all, $160 a year. But, in 1856, the legislature added $165 a year to the amount, on condition that the District should appropriate $75, and thus make the whole up to $400 a year. This has been done by the District, so that the average annual length of the two schools is about eight months. A marked improvement has resulted from this increased appropriation, in the character of the schools and in the interest manifested in their success; an interest which, if properly sustained, promises most beneficial results in the future. The people are now anxious for increased advantages of this kind, and instructed the undersigned Commissioner, through their committee, to ask, on their behalf, an additional appropriation from the school fund of seventy-five dollars a year, on the condition that they will add twenty-five dollars a year, and thus make up the full sum applicable to the support of their schools, to five hundred dollars a year. This would give them about ten months schooling; and when it is considered that a great portion of the children are obliged to leave the schools as soon as they get to an age which makes their services valuable, in obtaining the means of support for themselves and the families

to which they belong, it seems very desirable, that, during the short period of their school life, they should have the opportunity of attending school as large a portion of the time, as is consistent with a sound and healthy physical development. The schools are now in good condition, compared with what they were formerly, and the average attendance is about 80 per cent. of the whole number of scholars, which, considering the tender age of many of them, and the great distance that a portion of them have to travel, to reach the school, may be considered very good. The school in the North District, the past year, (1859,) was kept by Miss Ann Fallon, who appears every way competent to the situation, and manifests a laudable interest in the improvement of those under her charge. The visit of your Commissioner to the school was quite satisfactory to him. He did not have the opportunity of visiting the school in the South District, which was taught during the last summer by Miss Nellie C. Davis, but he had a satisfactory report of its condition. The state of advancement of the pupils in these schools, will not, of course, bear comparison with the district schools in our towns. The time has not yet come for that, but, considering the former low state of education in the District, and the disadvantages under which they labor in the want of instruction at home and of association with educated people, with others incident to their peculiar condition, the progress is such as to give cause for hopeful anticipations for the future; and the Commissioner is decidedly of the opinion, that, if the additional amount asked for by the District can be appropriated from the school fund, without essential detriment to other public interests, on the conditions on which it is asked, it will be a good expenditure of the money.

For the support of public worship, no expenditure is required from the funds of the District, except for incidental and contingent expenses, the salary of the missionary laboring among them being paid from the income of the "Williams Fund" for the evangelization of the Indians, in charge of Harvard College. Formerly a minister was settled here, with whom, theologically, the inhabitants did not agree, and this led, gradually, to alienation of feeling, and personal bitterness between them. The consequence was an almost entire abandonment by the people, of attendance on his services, ending, finally, in a lawsuit,

which was settled by a compromise in 1849, and, since that time, they have enjoyed the privilege of selecting their own spiritual adviser and guide. The Rev. Daniel Hawley is now ministering among them, to apparent satisfaction. He has been with them for one year, and has been re-engaged for the present year.* He manifests a commendable interest in the spiritual and temporal welfare of his charge, but the habit of neglecting or omitting the attendance on religious services, which grew up during the difficulties with a former pastor, had become chronic, and it will probably take some time longer, yet, entirely to overcome it. Yet an increased interest is manifested in religious concerns, and a great improvement, in this respect, is conceded to have taken place within the last fifteen or twenty years, an improvement which may be continued and accelerated by the patient and faithful services of a self-sacrificing pastor. For such a one, this is a promising field of labor, a field where not the Sabbath alone may be profitably employed, but every day of the week, in advice, example, and encouragement, in secular as well as religious affairs. Ignorance, poverty, and want, are favorable neither to morality nor religion, and, with such a people as this, every improvement in their social condition, and every advance in knowledge, whether in literature, science, art, or domestic economy, prepares them for the more ready reception of the vital truths of religion, and qualifies them the better for the discharge of the duties devolving on them, as moral and accountable beings. Especially is the inculcation of industrious habits important, and he who will manage to interest them more in the pursuit of their avocations, who will teach them so to diversify their pursuits as to make them productive, and thus render them agreeable and attractive, will confer a favor on them, the extent and value of which can hardly be appreciated. There is nothing which strikes a stranger, visiting the District, with more force, than the want, among many of the people, of habits of patient, persevering, well-directed industry, and he who should effect a change in this respect, would be a public benefactor.

It should have been stated that the family of the missionary occupy the parsonage belonging to the District, connected with which, is about three acres of pretty good land under cultiva-

* 1859. He continued with them through the year 1860.

tion. The meeting-house of the District is a neat building, sufficiently capacious for the accommodation of the people, and, by the bounty of the State was put in good repair in 1855. It is beautifully situated in a fine grove, where the land slopes gently to the south and west, on one of the most prominent elevations in the District, commanding a good view of the adjacent country. The secluded situation, at some distance from any human dwelling, with no external sound but the rustling of the foliage in the breeze, the choral song of the feathered songsters, and, perhaps the distant roar of the ocean, is well calculated to inspire a religious and devotional feeling.*

The resources of the District from which to meet their expenditures, are, $325 from school fund and surplus revenue, toward the support of the schools; interest on the fund created by the sale of the wood on the parsonage lot, so called, which now amounts to about $120; fisheries, about $200, and rent of meadows, about $100. Aside from some other trifling occasional receipts, this is all the regular income that can be relied on, and whatever this falls short of meeting the expenditures, has to be taken from the principal of the fund. The amount of the expenditures for the year ending the 30th of September last, has already been stated at $2,898.02, including the amount paid for new roads. After deducting the amount received for school money, and $715, received of the State, on account of the new roads, the whole revenue of the District was insufficient by the sum of $677.04 to meet the expenditure, and that amount had to be taken from the principal of the fund and diminished it to that extent. At this rate, in less than four years more, the fund will be exhausted. When that is gone, there was formerly a prospect that its place might be supplied, to a considerable extent, at least, from the wood growing upon the common lands. There was a good growth again coming on, upon the parsonage lot, besides what stood upon the other common lands, but the great fires of the last season have nearly destroyed it all.

* Since this was written, during the year 1860, the Sabbath School Library of the District has been largely increased by donations from the Baptist friends of this people, in Boston, through the influence of a Boston lady who visited them, and interested herself in their Sabbath schools.

The tabular list, herewith presented (see Appendix, A) gives, in addition to the quantity of land held by the respective proprietors in severalty, a valuation thereof, with the improvements, and a valuation, also, of such personal property as is held by them, respectively, beyond what is exempted by law from attachment. This valuation was very carefully made, and, it is believed, presents a fair estimate of the value of property held by individuals in the District, to which, if the public property be added, will present the following aggregate of the value of all the property of the District:—

Value of 10,171 acres of land held in severalty, with the improvements thereon,	$67,055 00
Value of personal property	8,598 00
" of 2,300½ acres held in common,	9,202 00
" " 450 " " " (parsonage)	2,250 00
" " 250 " " " (cedar swamp)	1,000 00
" " 150 " salt and fresh meadows,	2,250 00
	$85,355 00

Public property, $14,702; private property, $70,653.

This valuation would have been considered a low one, two or three years since, before the devastating fires had swept over the District; but it is higher than the property would probably sell for, now, if put into the market.* This value, then, must be considered prospective rather than actual, to be enhanced as the wood again grows up. The amount of land held in severalty, gives an average of nearly one hundred and ten acres to each of the ninety-three families of the District, which, to those residing in sections of the State, where the soil is fertile, and valuable for cultivation, would seem to place them in very comfortable circumstances. But it must be remembered that most of this land is of no value, except for the wood it produces; that the wood is of very slow growth, and that nearly all of it has just been burnt off, so that a long time must elapse before it

* By this, is meant, if put into the market, with competition open to everybody. If put up at auction with the existing restriction, that none but proprietors of the District could be purchasers, much of this land would hardly bring enough to pay the auctioneer's fee.

will again yield any income. A better estimate of their condition may be made, by considering that the whole value of the real estate held by individuals in the District, averages only the nominal sum of seven hundred and seventy dollars to a family, including buildings and all improvements. and that a considerable portion, even, of this amount, is in land that will yield no income whatever, for nearly, or quite twenty years. But, the real poverty of the people is more strikingly evinced, by the fact, that the whole personal property of the District, saving such necessary articles as the law exempts from attachment, throughout the State, averages only about forty dollars to each family. In this almost entire absence of material prosperity, we cannot reasonably look for much social advancement. And, it is an undoubted fact, that there has been very little improvement, either socially or morally, in the District, within the last ten years. In the northern part, there has been some progress in these respects, while the central and southern portions have remained nearly or quite stationary, except in one or two instances.

The stock kept in the District, the value of which is included in the estimate of the value of the personal property, consists of eight horses, twenty-four oxen, twenty cows, thirty-four young cattle, fifty-five swine, and six sheep, being an increase, in the last eleven years, of two-horned cattle and twelve swine, and a diminution of eight horses, and thirteen sheep. The diminution of the horses has probably been in consequence of the destruction of their wood, being no longer required to carry it to market.

The amount paid from the State treasury for the last eleven years for the support of paupers, has already been stated. As the District supports its own paupers, and, as this money was paid for the support of State paupers, who happened to be residing there, it is not properly chargeable to the District. The amount drawn from the school fund, for the use of schools in the District, has also been stated. The payments by the State for other purposes in the District, during the same time, are as follows:—

1852, for parsonage house,	$600 00
1855, for repair of meeting-house,	500 00
1856, further sum for the same,	360 00
1855–6, for repairing school-houses,	525 00
1859, for new roads and bridge,	715 00
	$2,690 00

One of the county commissioners for the county of Barnstable has called the attention of the Commissioner to the subject of the expenditures of the county, incurred for the making of roads in Marshpee, and for the expenses of criminals belonging to that District.* The copious extract from his letter, contained in the annexed note, fully explains the ground of complaint,

* A letter from Edward W. Ewer, Esq., the county commissioner referred to, says: "Since I saw you I have been constantly engaged, so that I present you with general, only, rather than specific results in our accounts with the District of Marshpee. First, the road commencing near Solomon Attaquin's and running past the school-house in the North District, and which is purely local in its advantages, cost the county (land damages and fencing) $274.2. Second, the road passing near the meeting-house and extending to Waquoit Mills is of more general utility, and cost the county for construction $610. There was no land damage or fence to pay for on this road. Total for roads during the last year, exclusive of commissioners' bills, sheriffs' services, clerk's fees, advertising, &c., $884.28, which the State has been petitioned to refund to the county.

"The expenses at the jail for board of prisoners during the year 1857 were $1,002, of which $32 was for natives and residents of Marshpee, and about as much more on account of prisoners, whose crimes, but for their contact with this, unfortunately, weaker race, had never been committed. In 1858 the whole expense at the jail at Barnstable was $1,226, of which $93.06 was for Marshpeeans, with the same allowance as above to Marshpee, as the procuring cause. Thus, about 8 per cent. of the cost of boarding prisoners at bar is directly referable, and twice that number indirectly, to our contiguity to the District. This does not look so large as it would when we consider that, probably, about the same proportion of our criminal costs, so far as they are paid by the county, of the expense of constructing and maintaining county buildings &c., is chargeable to the same source, and this, too, when the State has assumed the guardianship and support of this race.

"We have a jail in Provincetown for that and the adjoining town of Truro, the expense of which, I think, is less than for the District of Marshpee alone. We consider our case anomalous. We do not object to bearing our full proportion of public burdens. Do we not, in your opinion, have to bear more? We think we do."

ship, with its privileges and responsibilities, by the Indians themselves, as a right they are desirous of possessing, would justify the extending of it to them. And it is satisfactory to know, that the Indians take a correct view of the matter. At the public hearing, given at Marshpee, the question was brought up for consideration. One of the first speakers, a foreigner,* who married a woman of the tribe, and who has resided but a short time in the District, near the border, among the better conditioned and more intelligent portion of the inhabitants, advocated the application to the legislature for the extension of the right to them, but after a full and free discussion, the vote was unanimous in favor of remaining as they are, the individual who had spoken on the other side voting with the rest.

A committee was appointed at the public hearing, to consider the wants of the District, and to report thereon to me. In their report, they request me to ask three things of the legislature, on their behalf,† viz.:

1. That authority be given, by law, to the District to nominate their own treasurer, subject, of course, to the confirmation of the governor and council.

2. That an addition of seventy-five dollars be made to the annual appropriation from the school fund, for the benefit of their schools, on condition that they add twenty-five dollars additional to it, so as to raise the amount annually expended for their schools from four hundred to five hundred dollars.

3. That they be empowered to elect a delegate to represent them in the legislature.

Superficially examined, there is much plausibility in the first of these requests. The youth of fourteen, who is left without a parent, is permitted to choose his own guardian, subject to the approval of the judge of probate; and why should not this community be allowed the same privilege, in relation to their treasurer, who, so far as the keeping of their funds is concerned, it is held, is a *quasi* guardian, under another name. If the same principles were involved in both cases, there would seem to be no good reason why the tribe should not have the privilege they ask. But they are not. In the case of the ward, who chooses his own guardian, the State has no interest other than that it has in the welfare of every other citizen of the State. The only duty that the guardian, as such, owes to the State is to protect the rights and guard the interests of his ward. But, in this case, the Marshpee District has not the means of providing, to the full extent, for its public charges, such as maintaining its poor, building and repairing its highways, supporting its schools, &c., and whatever deficiency there may be, in meeting these exigencies, the State provides for. It has, therefore, a direct interest in the safety of the funds of the District, and has virtually taken them into its own keeping, and thus become responsible for them. While, in a spirit of just liberality, it has relieved the District of the restraints formerly imposed on it, and conceded to it the right to elect its own officers, to manage its own public affairs, and to have control of all expenditures of money for such purposes, it has interposed its own authority only for the security of their funds from the danger of loss, to which all public moneys are so peculiarly exposed, and to which, from the circumstances of the case, those of the District would be more liable than most others. Having assumed this responsibility for the safe keeping of the funds, it is most obviously proper, that it should be unrestrained in the selection of the treasurer by whom that duty is to be performed. He is the officer of the State, and not of the tribe, and, if the view here taken is correct, it is the State and not the tribe that is to be affected, favorably or unfavorably, as this officer shall perform his duties with fidelity or otherwise. This being so, the appointment should obviously proceed from the party whose interest he represents. He should feel that he is the officer of the State, and not dependent on the proprietors of the District for the place he holds.

With this view of the question, I cannot recommend the change that is asked for. In the exercise of the duty which devolves on the governor, in making the appointment, there is no reason to fear that he will ever needlessly wound the sensibilities of the proprietors, or that he will not lend a patient ear to any representations they may make on the subject, and give them a candid consideration.

* This word is used in the Indian sense, to imply any one not a native of the plantation, or of one of the kindred tribes.

† See Appendix, B.

The request for an addition to the school money of the District has already been favorably noticed, but I cannot let the opportunity pass, without again urging its favorable consideration on the legislature. The establishment of permanent schools in both sections of the District, with only the necessary vacations, usual in such schools, under the charge of suitable teachers, would be a great blessing to the tribe; and I look upon it as one of the most effective agencies at our command, for its regeneration.*

The third request involves considerations less vital than the second, and it is, therefore, much less important how it may be determined. Some advantages would undoubtedly be secured by granting it. It would give to the members of the tribe a more general interest in the affairs of the State, and conduce to their political education, preparatory to the time when they may be required to assume the duties of citizenship. It would afford a healthy stimulus to the people, to qualify themselves, by intelligence and moral worth, for the office of delegate. The delegate would carry back from the legislature an amount of information and a general influence, that would not fail of being useful to the tribe, and the legislature itself would secure a source of information on matters pertaining to the Indians, in such a delegate, not readily accessible in any other mode. I would therefore commend the request to the candid consideration and sound judgment of the legislature. It is understood that the applicants would be satisfied with a biennial or even a triennial representation, and it will be understood of course, that, if allowed a delegate, he could have no right to vote.

I would here acknowledge the obligations I am under to Hon. Charles Marston, Treasurer of Marshpee, for the patience with which he has submitted to the protracted interrogating, to which I have had occasion to subject him, relative to the inhabitants and affairs of the District, and for the promptness and uniform courtesy with which he has responded to my inquiries, and which have marked his whole intercourse with me, the more

* It may not be inappropriate to say that my views, as here expressed, in favor of the proposed appropriation, and in relation to the importance of increased facilities for the education of the children of the tribe, have received the full concurrence of the treasurer of the District, to whom they have been submitted.

grateful, because it contrasts favorably with my experience in some other quarters. To Solomon Attaquin, one of the selectmen of Marshpee, for 1859, I am also under particular obligations, for the cheerful and ready aid he has afforded, and for the large amount of desirable information he has communicated. If the District had a few more men, combining in each, his intelligence, probity, and general character, we might look hopefully for its future progress in the right direction.

HERRING POND INDIANS.

This tribe is located on the east side of Herring Pond, on a neck of land lying between that pond and Cape Cod Bay, the territory being chiefly in the south-easterly part of Plymouth, but a small portion of it is in the northerly part of Sandwich; the nearest convenient point of access to it being from the railroad station at North Sandwich. The whole number of the tribe, excluding women who have married and live with their husbands in other tribes, is sixty-seven.*

Number of families,		19
Males,	31	
Females,	36	
	—	67
Natives, including those who were born in other tribes but married and live on the plantation,		62
Foreigners,		5
Under 5 years of age,	9	
From 5 to 10 years of age,	5	
10 to 21 years of age,	12	
21 to 50 years of age,	33	
50 to 70 years of age,	8	
Of 70 and over,	1	
	—	67

The mortality in this tribe, within a few years past, has been remarkably great, exceeding, even that at Christiantown and Chappequiddick, already referred to. Of fifty-five persons returned by the commissioners as belonging to the tribe in

* Having homes on the plantation, forty-five, residents elsewhere, twenty-two.

MARSHPEE TRIBE.

NAME.	Age.	Sex or Condition.	Tribe or Town.	Occupation.	Residence.	Personal Property.	Acres of Land in severalty.	Value of Land.	Value of Land and Buildings.
Solomon Attaquin,	49	Married,	Marshpee,	Farmer,	Marshpee,	$488	86	$1,468	$2,618
Cynthia Attaquin,	43	"	Herring Pond,	–	"	–	61*	530	–
Nancy Estella Attaquin,	3	Girl,	Marshpee,	–	"	–	–	–	–
Lewis Ellis Attaquin,	15	Boy,	"	–	"	20	118½	592	–
Sarah Attaquin,	70	Widow,	"	–	"	–	135	775	1,075
Benjamin J. Attaquin,	46	Widower,	"	Mariner,	"	–	135	900	1,845
Pamela Attaquin,	11	Girl,	"	–	"	–	–	–	–
Persis A. Attaquin,	8	"	"	–	"	–	–	–	–
Matthias Amos,	43	Married,	"	Mariner,	"	265	130	1,300	2,350
Clarissa Amos,	41	"	"	–	"	–	–	–	–
Clarinda C. Amos,†	15	Single,	"	–	"	–	–	–	–
Aurelius E. Amos,	8	Boy,	"	–	"	–	–	–	–
Horatio M. Amos,	5	"	"	–	"	–	–	–	–
Celina H. Amos,	9 mos.	Girl,	"	–	"	–	–	–	–
Della Amos,	38	Widow,	"	–	"	–	60	300	–
Elizabeth Amos,	5	Girl,	"	–	"	–	–	–	–
Lucinda Amos,	3	"	"	–	"	–	–	–	–
James Amos,	51	Married,	"	Mariner,	"	55	175	1,400	2,325
Persis Amos,	42	"	"	–	"	–	–	–	–
Israel Amos,	70	"	"	Mariner,	"	–	120	1,200	1,320
Polly Amos,	67	"	"	–	"	–	–	–	–

David Robbins,‡	29	Single,	Marshpee,	Mariner,	Marshpee,	–	–	–	–
Naomi Amos,	63	Widow,	"	–	"	–	263	$1,575	$1,575
Betsy Smith,	93	"	"	–	"	–	–	–	–
Daniel Q. Amos,	22	Married,	"	Mariner,	"	–	61	366	–
Adriana F. Amos,	22	"	"	–	"	–	–	–	–
Franklin H. Amos,	9 mos.	Boy,	"	–	"	–	–	–	–
Joseph Amos,§	54	Married,	"	Blind, Preacher,	Nantucket,	–	150	900	1,200
Phebe R. Amos,	40	"	"	–	"	–	–	–	–
Rebecca C. Amos,‖	24	Single,	"	–	"	–	10	70	–
Sarah B. Amos,	16	"	"	–	"	–	10	70	–
Cordelia B. Amos,	14	"	"	–	"	–	10	70	–
Benjamin F. Amos,	11	Boy,	"	–	"	–	–	–	–
Sampson F. Alvis,	56	Married,	"	Farmer,	Marshpee,	–	120	720	920
Hannah G. Alvis,	57	"	"	–	"	–	–	–	–
Ezekiel Alvis,¶	25	Single,	"	Mariner,	"	–	–	–	–
Clarissa Alvis,	14	"	"	–	"	–	–	–	–
Charles F. Alvis,	31	Married,	"	Mariner,	"	–	–	–	–
Jemima Alvis,¶	25	"	"	–	"	–	–	–	–
Mary Ann Alvis,	7	Girl,	"	–	"	–	–	–	–
Bethiah Alvis,	5	"	"	–	"	–	–	–	–
Kilburn Alvis,†	3	Boy,	"	–	"	–	–	–	–
Ebenezer Alvis,	3 wks.	"	"	–	"	–	–	–	–

* Situated on Herring Pond. † Sons deceased.

‡ Sons returned to Marshpee with all his family. § Sons married to Hannah Tobey, and has a son, born in November, 1860.

‖ Sons married to Lucy Ann Cuzzo. ¶ Sons married to Watson Hammond.

Has separated from her husband, and since married to Joseph Quippish.

MARSHPEE TRIBE—*Continued.*

NAME.	Age.	Sex or Condition.	Tribe or Race.	Occupation.	Residence.	Personal Property.	Acres of Land in severalty.	Value of Land.	Value of Land and Buildings.
William H. Butler,	33	Married,	African, (for.)	Shoemaker,	Marshpee,	–	60	$300	–
Sarah H. Butler,	32	"	Marshpee,	–	"	–	–	–	–
Ida Butler,	9 mos.	Girl,	"	–	"	–	–	–	–
John D. Brown,	45	Married,	Colored, (for.)	Farmer,	"	$114	75	415	$700
Sarah Brown,	51	"	Marshpee,	–	"	–	–	–	–
Azariah G. Brown,	13	Boy,	"	–	"	–	–	–	–
Emeline F. Brown,	11	Girl,	"	–	"	–	–	–	–
Sarah A. Brown,	10	"	"	–	"	–	–	–	–
Julia Ann Brown,	18	Single,	(For.,) adopted,	–	"	–	–	–	–
William Brown,	28	Married,	African, (for.)	Mariner,	"	–	–	–	–
Mercy H. Brown,	23	"	Marshpee,	–	"	–	–	–	–
Mary E. Brown,	1½	–	"	–	"	–	30	300	–
Martha Keeter,	56	Widow,	"	–	"	–	–	–	–
Noah Keeter,	32	Single,	"	Laborer,	"	–	–	–	–
John Baker,	35	Married,	"	Mariner,	New Bedford,	–	80	240	–
Charlotte M. Baker,	35	"	Chappequiddick,	–	"	–	–	–	–
Nancy Brooks,*	48	Widow,	Marshpee,	–	Yarmouth,	–	75	300	–
Ophelia Cesar,	75	"	"	–	Marshpee,	–	–	–	–
Oakes A. Coombs,	51	Married,	"	Farmer,	"	–	210	1,700	1,900
Dinah B. Coombs,	36	"	"	–	"	–	–	–	–
George Russell Coombs,	15	Boy,	"	–	"	–	–	–	–

Marins Coombs,	13	Boy,	Marshpee,	–	Marshpee,	–	–	–	–
Daniel C. Coombs,	13	"	"	–	"	–	–	–	–
Oakes Coombs,	4	"	"	–	"	–	–	–	–
William Coturn,	26	Single,	"	Mariner,	"	–	140	$700	–
Sylvia Cuco,	70	Widow,	Middleborough,	State pauper,	"	–	–	–	–
Jeremiah Cowett,	58	Widower,	Marshpee,	Farmer,	"	–	120	480	$480
Louisa A. Cowett,	33	Single,	"	–	"	–	–	–	–
John H. Cowett,	29	"	"	Mariner,	"	–	–	–	–
Esther Cowett,	24	"	"	–	"	–	–	–	–
Sarah E. Cowett,	21	"	"	–	"	–	–	–	–
James F. Cowett,	18	"	"	Mariner,	"	–	–	–	–
Nancy E. Cowett,	16	"	"	–	"	–	–	–	–
Fontenella S. Cowett,	13	"	"	–	"	–	–	–	–
John Henry Cowett,	1	Boy,	"	–	"	–	–	–	–
Lois Pells,	98	Widow,	"	–	"	–	–	–	–
Lucy Ann Carver,†	29	"	"	–	"	–	75	450	–
Lucy Ann Carver,	11	Girl,	"	–	"	–	75	450	–
Aurelia Carver,	8	"	"	–	"	–	–	–	–
Samuel Cowett,	32	Married,	"	Laborer,	"	–	60	180	–
Esther Cowett,	39	"	"	–	"	–	–	–	–
Jacob Cowett,	13	Boy,	"	–	"	–	–	–	–
Charles DeGrasse,	54	Single,	"	Crippled,	"	–	100	300	350
Elias DeGrasse,	44	"	"	Mariner,	"	–	100	400	700
Simon Edwards,	50	"	"	"	"	–	60	300	–

* Belongs now to Yarmouth, and resides there.

† Since married to Reuben Alvis.

MARSHPEE TRIBE—*Continued.*

NAME.	Age.	Sex or Condition.	Tribe or Race.	Occupation.	Residence.	Personal Property.	Acres of Land in severalty.	Value of Land.	Value of Land and Buildings.
Mercy Edwards,	70	Widow,	Marshpee,	–	Sandwich,	–	90	$360	–
Spencer Edwards,	41	Married,	"	Mariner,	"	–	150	450	–
Ophelia Edwards,	15	"	"	–	"	–	–	–	–
Esther C. Edwards,	21	Single,	"	–	"	–	–	–	–
Mary A. Edwards,	19	"	"	–	"	–	–	–	–
Susan Bowyer,	19	"	"	–	"	–	–	–	–
Henry Bowyer,	16	Boy,	"	–	"	–	–	–	–
James Bowyer,	15	"	"	–	"	–	–	–	–
Marianne Edwards,	9	Girl,	"	–	"	–	–	–	–
Sarah A. Edwards,	8	"	"	–	"	–	–	–	–
Betsy E. Edwards,	3	"	"	–	"	–	–	–	–
William H. Edwards,	2	Boy,	"	–	"	–	–	–	–
Albert F. Edwards,	6 mos.	"	"	–	"	–	–	–	–
Peter S. Foller,*	51	Married,	"	Mariner,	Marshpee,	$00	140	1,120	$1,195
Dinah T. Foller,	50	"	"	–	"	–	–	–	–
William Freeman,	–	"	African, (for.)	–	New York,	–	180	1,260	–
Ruth Freeman,	52	"	Marshpee,	–	"	–	–	–	–
James Gardiner,	23	Single,	"	Laborer,	New Bedford,	–	80	400	–
Wm. H. Gardiner,*	about 35	Married,	Colored, (for.)	Mariner,	Providence, R. I.	–	–	–	–
Mary Gardiner,	35	"	Marshpee,	–	"	–	–	–	–
Samuel M. Godfrey,	41	"	Colored, (for.)	Mariner,	Marshpee,	–	25	375	650
Hannah Godfrey,	33	"	Marshpee,	–	"	–	–	–	–

Lysander D. Godfrey,	17	Boy,	Marshpee,	–	Marshpee,	–	–	–	–
Alonzo Godfrey,	15	"	"	–	"	–	–	–	–
Melissa E. Godfrey,	14	Girl,	"	–	"	–	–	–	–
James M. Godfrey,	12	Boy,	"	–	"	–	–	–	–
Susan B. Godfrey,	10	Girl,	"	–	"	–	–	–	–
Frances E. Godfrey,	7	"	"	–	"	–	–	–	–
Ann Godfrey,	6 mos.	"	"	–	"	–	–	–	–
Oliver Gardiner,†	23	Single,	"	Mariner,	"	–	30	$120	–
Leah Gardiner,	15	"	"	–	"	–	30	120	–
Roland Gardiner,	6 mos.	Boy,	"	–	"	–	–	–	–
Watson Hammond,‡	22	Single,	"	Mariner,	"	–	30	180	–
John Hendricks,	51	Married,	Colored, (for.)	"	"	–	–	–	–
Chloe Hendricks,	53	"	Marshpee,	–	"	–	80	360	$400
Isaac Hendricks,§	23	Single,	"	Mariner,	"	–	–	–	–
Hannah Hersh,	76	"	"	–	Hyannis,	–	–	–	–
Sally Hersh,	71	"	"	–	"	–	–	–	–
John Holmes,	28	Married,	"	Mariner,	St. Johns, N. B.	–	–	–	–
—— Holmes, (his wife,)		"	(foreigner,)	–	"	–	–	–	–
William W. Holland,	36	"	Colored, (for.)	Farmer,	Marshpee,	–	–	–	–
Sally Holland,	27	"	Marshpee,	–	"	–	80	400	575
Francis Hicks,	70	"	Colored (for.)	Farmer,	"	$250	–	–	–
Bathsheba Hicks,	65	"	Marshpee,	–	"	–	80	360	610

* Sheet deceased.

† Sheet married to Harriet Sullivan.

‡ Sheet married to Isabella F. Whiting, but now a widower.

§ Sheet married to Rebecca T. Amos.

MARSHPEE TRIBE—*Continued.*

NAME.	Age.	Sex or Condition.	Tribe or Race.	Occupation.	Residence.	Personal Property.	Acres of Land in severalty.	Value of Land.	Value of Land and Buildings.
Abner Hicks,	73	Married,	Colored, (for.)	Farmer,	Marshpee,	$175	-	-	-
Sally Hicks,	73	"	Marshpee,	-	"	-	180	$1,080	$1,330
Eleanor B. Hicks,	34	Single,	"	-	"	-	-	-	-
Amanda M. Hicks,	12	Girl,	"	-	"	-	-	-	-
Frankie Hicks,	7	Boy,	"	-	"	-	-	-	-
Mercy A. Hicks,	4 mos.	Girl,	"	-	"	-	-	-	-
Horace A. Hicks,	15	Boy,	"	-	"	-	-	-	-
Andrew Hicks,	12	"	"	-	"	-	-	-	-
Mary T. P. Low,	19	Single,	"	-	"	-	30	90	-
Ariel F. Low,	17	Boy,	"	-	"	-	30	90	-
Susanna A. Low,	15	Girl,	"	-	"	-	20	80	-
Carmeta F. Low,	12	"	"	-	"	-	20	80	-
Cornelius K. Low,	6	Boy,	"	-	"	-	20	80	-
Hannah P. Low,	3	Girl,	"	-	"	-	20	80	-
							20	80	-
Hebron Hicks,	43	Married,	"	Miner,	California,	-	80	180	-
Mercy Hicks,	44	"	"	-	Marshpee,	-	80	180	-
Thomas L. Hicks,	16	Boy,	"	-	"	-	-	-	-
Meiora E. Hicks,	15	Girl,	"	-	"	-	-	-	-
Christopher Hinson,	77	Married,	"	Farmer,	"	-	80	220	260
Susanna Hinson,	77	"	-	-	"	-	-	-	-
Hezekiah Jackson,	32	"	Colored, (for.)	Laborer,	"	-	-	-	-
Jerusha Jackson,	22	"	Marshpee,	-	"	-	-	-	-
Lafayette Jackson,	3	Boy,	"	-	"	-	80	300	325
Fanny L. Jackson,	1	Girl,	"	-	"	-	-	-	-

Betsy James,	35	Widow,	Marshpee,	-	Marshpee,	-	53½	$214	-
John Thompson,	19	Boy,	"	-	"	-	-	-	-
Lydia Thompson,*	16	Single,	"	-	"	-	-	-	-
Hannah Thompson,	14	"	"	-	"	-	-	-	-
Lydia Jackson,	74	Widow,	"	-	"	-	-	-	-
Thomas Jonas,	49	Married,	Colored, (for.)	Jobber,	"	$40	80	180	$220
Rosanna Jonas,	42	"	Marshpee,	-	"	40	-	-	-
Frederick D. Jonas,	8	Boy,	"	-	"	-	80	560	585
Infant,†	-	Girl,	-	-	"	-	-	-	-
Lisbern Johnson,‡	67	Married,	Colored, (for.)	State pauper,	"	-	-	-	-
Nancy Johnson,	45	"	Marshpee,	-	"	50	161	1,044	1,494
William Jones,	50	"	"	Miner,	California,	-	120	360	-
Antoniette Jones,	-	"	Colored, (for.)	-	Portland, Me.	-	-	-	-
George H. Jones,	22	Single,	Marshpee,	-	" "	-	-	-	-
Wm. Alexander Jones,	20	"	"	-	" "	-	-	-	-
Sarah Louisa Jones,	18	"	"	-	" "	-	-	-	-
Azzy Jones,	41	Widow,	"	-	Marshpee,	-	135	1,080	1,325
Mary S. Jones,	11	Girl,	"	-	"	-	-	-	-
Almira B. Jones,	9	"	"	-	"	-	-	-	-
Caroline F. Jones,	6	"	"	-	"	-	-	-	-
Samuel R. Jones,	5	Boy,	"	-	"	-	-	-	-
Abby F. Jones,	3	Girl,	"	-	"	-	-	-	-
Mary H. Jones,	35	Widow,	"	-	"	-	-	-	-
Oliver F. Jones,	10	Boy,	"	-	"	47	140	910	1,185
Ann M. Jones,	8	Girl,	"	-	"	-	-	-	-

* Since committed to Bliss P. Poltz.

† Since deceased.

‡ He has since ceased, or is a public charge.

MARSHPEE TRIBE—*Continued.*

NAME.	Age.	Sex or Condition.	Tribe or State.	Occupation.	Residence.	Personal Property.	Acres of Land in severalty.	Value of Land.	Value of Land and Buildings.
Aaron Keeter,	54	Married,	Marshpee,	Laborer,	Marshpee,	–	–	–	–
Mary Keeter,	47	"	"	–	"	–	–	–	–
James J. Keeter,	21	Single,	"	Mariner,	"	$105	160	$480	$530
J. Sylvester Keeter,	15	Boy,	"	–	"	–	–	–	–
Edmund Keeter,	11	"	"	–	"	–	–	–	–
Lorenzo Keeter,	9	"	"	–	"	–	–	–	–
Simon W. Keeter,	42	Married,	"	Farmer,	"	75	210	1,050	1,250
Lydia Keeter,	40	"	"	–	"	–	–	–	–
Elizabeth Keeter,	9	Girl,	"	–	"	–	–	–	–
Benjamin Keeter,	4	Boy,	"	–	"	–	–	–	–
Lucy Keeter,	4	Girl,	"	–	"	–	–	–	–
Rachel A. Keeter,*	2	"	"	–	"	–	–	–	–
Abigail Keeter,	2 mos.	"	"	–	"	–	–	–	–
Nicholas P. Keeter,	32	Married,	"	Jobber,	"	–	120	480	–
Diana Keeter,	35	"	"	–	"	–	–	–	–
John Kennedy,	27	"	"	Farmer and mariner,	"	–	60	240	315
Hepzibah J. Kennedy,	28	"	"	–	"	–	–	–	–
Sarah Kennedy,	2 mos.	Girl,	"	–	"	–	–	–	–
James A. Lippett,	57	Married,	Colored, (for.)	Miner,	California,	–	–	–	–
Sarah Lippett,	51	"	Marshpee,	–	Marshpee,	–	60	180	220
Richard Layton,	50	Married,	Colored, (for.)	Barber,	Boston,	–	120	–	–
Lucy A. Layton,	39	"	Marshpee,	–	"	–	–	–	–

William Henry Layton,	21	Single,	Marshpee,	Barber,	Boston,	–	–	–	–
Theodore G. Layton,	15	Boy,	"	–	"	–	–	–	–
Ebenezer Low,	67	Married,	Colored, (for.)	Farmer,	Marshpee,	$165	120	$936	$1,261
Celia Low,	66	"	Marshpee,	–	"	–	–	–	–
Roxana Manning,	37	–	"	–	"	–	–	–	–
Marshall Manning,	13	Boy,	"	–	"	–	–	–	–
Charles Lee,	38	Married,	"	Mariner,	New York,	–	120	480	–
——— Lee, (his wife,)	–	"	Unknown,	–	"	–	–	–	–
William Lee,	34	"	Middleboro',	Mariner,	Absent in Califor.,	–	–	–	–
Emeline Lee,	38	"	Marshpee,	–	Marshpee,	–	–	–	–
Charlotte Lyons,	26	Widow,	Unknown,	–	New Bedford,	–	–	–	–
Harriet Frances Lyons,	10	Girl,	"	–	"	–	–	–	–
Jeanette F. Lyons,	7	"	"	–	"	–	–	–	–
John Mashow,†	54	Married,	Colored, (for.)	Shipwright,	Dartmouth,	–	60	480	–
Hope Mashow,	40	"	Marshpee,	–	"	–	–	–	–
Mary F. Mashow,	26	Single,	"	–	"	–	–	–	–
Isaac H. Mashow,	23	"	"	–	"	–	–	–	–
Emily O. Mashow,	18	"	"	–	"	–	–	–	–
John Albert Mashow,	16	Boy,	"	–	"	–	–	–	–
Maria A. Mashow,	14	Girl,	"	–	"	–	–	–	–
Charles W. Mashow,	12	Boy,	"	–	"	–	–	–	–
Ellen M. Mashow,	10	Girl,	"	–	"	–	–	–	–
George A. Mashow,	8	Boy,	"	–	"	–	–	–	–
Frank E. Mashow,	4	"	"	–	"	–	–	–	–
Eliza B. Mashow,	2	"	"	–	"	–	–	–	–

* Since deceased.

† One more child since born, viz: August, 1860, a girl.

MARSHPEE TRIBE—*Continued.*

NAME.	Age.	Sex or Condition.	Tribe or Race.	Occupation.	Residence.	Personal Property.	Acres of Land in severalty.	Value of Land.	Value of Land and Buildings.
Charles D. Mingo,	54	Married,	Colored, (for.)	State Pauper,	Marshpee.	–	–	–	–
Sarah Mingo,*	62	"	Marshpee,	–	"	–	–	–	–
Franklin Goodwin,	29	Single,	"	Steam-boat hand,	Holmes' Hole.	–	–	–	–
Walter Mingo,	21	Married,	"	Mariner,	"	–	140	$639	–
Frances Mingo,	26	"	"	–	"	–	–	–	–
George Henry Mingo,	2	Boy,	"	–	"	–	–	–	–
Dorcas Mills,	36	Widow,	"	–	Marshpee.	–	–	–	–
William J. Mills,	16	Boy,	"	–	"	–	–	–	–
James S. Mills,	15	"	"	–	"	–	–	–	–
Elizabeth S. Mills,	13	Girl,	"	–	"	–	–	–	–
Lewis Mills,	11	Boy,	"	–	"	–	–	–	–
Ophelia P. Mills,	7	Girl,	"	–	"	–	–	–	–
David Mye,	55	Married,	"	Mariner,	"	$15	120	600	$650
Margery Mye,	42	"	"	–	"	–	–	–	–
Adeline B. Gardner,	17	Single,	"	–	"	–	–	–	–
Ella Florence Gardner,	1	Girl,	"	–	"	–	–	–	–
James F. Mye,†	39	Single,	"	Mariner,	"	–	20	120	–
Thomas Mye,	31	"	"	"	"	–	20	120	–
William F. Mye,‡	29	"	"	"	"	–	20	120	–
Susan Mye,	42	"	"	–	Portland, Me.,	–	60	180	–
George T. Ockry,	41	Married,	"	Farmer,	Marshpee,	88	60	382	907
Betsy J. Ockry,	38	"	"	–	"	–	–	–	–

Euphrasia A. Ockry,	15	Single,	Marshpee,	–	Marshpee,	–	–	–	–
James A. Ockry,	11	Boy,	"	–	"	–	–	–	–
George L. Ockry,	7	"	"	–	"	–	–	–	–
Gertrude C. Ockry,	4	Girl,	"	–	"	–	–	–	–
Martha C. Ockry,	2	"	"	–	"	–	–	–	–
Addie B. Ockry,	1	"	"	–	"	–	–	–	–
James F. Pells,	19	Single,	"	Mariner,	"	–	–	–	–
Moses Pocknet,	60	Married,	"	Farmer,	"	$213	160	$640	$740
Merey S. Pocknet,	50	"	"	–	"	–	–	–	–
Alexander D. Pocknet,	29	Single,	"	Mariner,	"	–	–	–	–
Grafton G. Pocknet,	23	"	"	"	"	–	–	–	–
Susan Pocknet,	20	"	"	–	"	–	–	–	–
Reliance Pocknet,§	17	"	"	–	"	–	–	–	–
Henrietta Pocknet,	15	"	"	–	"	–	–	–	–
Triphosa Pocknet,	13	"	"	–	"	–	–	–	–
Timothy Pocknet,	55	Married,	"	Mariner,	"	–	80	400	450
Mary Ann Pocknet,	47	"	"	–	"	–	120	540	615
Russell Brown,	16	Boy,	"	–	"	–	–	–	–
Nathan S. Pocknet,	50	Married,	"	Mariner,	"	–	150	900	1,100
Elizabeth Pocknet,	26	"	"	–	"	–	30	120	–
Zacchæus Pocknet,	7	Boy,	"	–	"	–	–	–	–
Benjamin F. Pocknet,	5	"	"	–	"	–	–	–	–
Angeline Pocknet,	4	Girl,	"	–	"	–	–	–	–
Teresa Pocknet,	2	"	"	–	"	–	–	–	–
Edward Pocknet,	Inf.	Boy,	"	–	"	–	–	–	–

* Died in 1860.

† Since married to Ellen Gardner of Herring Pond.

‡ Since married to Reuben Manning, confirmed with of Alvan Manning, of Gay Head.

§ Since married to Jacob Pocknet.

MARSHPEE TRIBE—*Continued.*

NAME.	Age.	Sex or Condition.	Tribe or Race.	Occupation.	Residence.	Personal Property.	Acres of Land in severalty.	Value of Land.	Value of Land and Buildings.
Gideon N. Pocknet,	50	Married,	Marshpee,	Jobber,	Marshpee,	–	197	$985	$1,010
Mahala B. Pocknet,	37	"	"	–	"	–	–	–	–
Jacob Pocknet,*	21	Single,	"	Mariner,	"	–	–	–	–
Sarah Ann Pocknet,	18	"	"	–	"	–	–	–	–
Celia R. Pocknet,	17	"	"	–	"	–	–	–	–
Eusebia Pocknet,	15	"	"	–	"	–	–	–	–
Lucinda Pocknet,	11	Girl,	"	–	"	–	–	–	–
Edgar Pocknet,	8	Boy,	"	–	"	–	–	–	–
Emma Frances Pocknet,	7	Girl,	"	–	"	–	–	–	–
Henry C. Pocknet,	5	Boy,	"	–	"	–	–	–	–
Joshua Pocknet,	40	Married,	"	Mariner,	California,	–	140	840	870
Harriet Pocknet,	40	"	"	–	–	–	–	–	–
Elijah W. Pocknet,	30	Married,	"	Farmer,	Marshpee,	–	120	420	820
Phebe A. Pocknet,	30	"	"	–	"	–	–	–	–
Olivia T. Pocknet,	9	Girl,	"	–	"	–	–	–	–
Phebe E. Pocknet,	7	"	"	–	"	–	–	–	–
Elijah W. Pocknet, Jr.,	5	Boy,	"	–	"	–	–	–	–
Joshua A. Pocknet,	3	"	"	–	–	–	–	–	–
John Pompey,	40	Married,	"	Mariner,	Cotuit Port,	–	80	480	530
Elizabeth Pompey,	33	"	White, (for'gner)	–	"	–	–	–	–
Angelia F. Pompey,	9	Girl,	Marshpee,	–	"	–	–	–	–
Cynthia A. Pompey,	7	"	"	–	"	–	–	–	–
Caroline Pompey,	5	"	"	–	"	–	–	–	–
Edward Pompey,	1 mo.	Boy,	"	–	"	–	–	–	–

Dives Quippish,	70	Widower,	Marshpee,	Farmer,	Marshpee,	–	260	$1,300	$1,400
Daniel Quippish,	68	"	"	"	"	225	63	378	503
Joseph Quippish,†	29	Single,	"	"	"	–	30	150	–
Harriet Rollins,‡	28	Widow,	"	–	"	–	134	670	–
Thomas G. Sewall,	40	Married,	Colored, (for.)	Farmer, formerly Barber,	"	180	–	–	–
Ann Sewall,	40	"	"	–	"	–	63	310	1,060
Matilda Simon,	66	Widow,	Marshpee,	–	"	–	14	84	–
Martha Ann Mye,	13	Girl,	"	–	"	–	20	60	–
Anna Maria Mye,	11	"	"	–	"	–	20	60	–
Mehitable S. Mye,	9	"	"	–	"	–	20	60	–
William Henry Simon,	37	Married,	"	Mariner,	"	140	192	1,344	1,344
Lucy M. Simon,	33	"	"	–	"	–	–	–	–
Daniel S. Simon,	11	Boy,	"	–	"	–	–	–	–
Melinda E. Simon,	9	Girl,	"	–	"	–	–	–	–
Mehitable P. Simon,	8	"	"	–	"	–	–	–	–
Wm. Henry Simon, Jr.,	7	Boy,	"	–	"	–	–	–	–
Lucy L. Simon,	4	Girl,	"	–	"	–	–	–	–
Azubah A. Simon,	2	"	"	–	"	–	–	–	–
Isaac Simon,	6 mos.	Boy,	"	–	"	–	–	–	–
William Simmons,	65	Married,	Colored, (for.)	Farmer,	"	–	–	–	–
Patience Simmons,	40	"	Marshpee,	–	"	–	60	240	–
Sarah R. Simpson,§	–	"	"	–	"	–	60	180	–

* Have married to Bethiah Pocknet.

† Have married to Jemima Alvis, undivorced wife of Charles F. Alvis.

‡ Have married to Oliver Gardner.

§ Belongs by marriage and residence to Chappaquiddick.

MARSHPEE TRIBE—*Continued.*

NAME.	Age.	Sex or Condition.	Tribe or Race.	Occupation.	Residence.	Personal Property.	Acres of Land in severalty.	Value of Land.	Value of Land and Buildings.
Susan Stanley,	33	Widow,	Marshpee,	—	Marshpee.	—	—	—	—
Kate Stanley,	12	Girl,	"	—	"	—	—	—	—
Ann Stanley,	10	"	"	—	"	—	—	—	—
Frank Stanley,	8	Boy,	"	—	"	—	—	—	—
John Thompson,	28	Married,	Gay Head,	Mariner,	"	—	—	—	—
Hannah P. Thompson,	23	"	Marshpee,	—	"	—	—	—	—
Joseph Tobey,	62	Married,	"	Farmer,	"	$65	120	$720	$870
Jedida Tobey,	60	"	"	—	"	—	—	—	—
Oaker A. Tobey,	28	Single,	"	Mariner,	"	—	—	—	—
Sylvania Tobey,	26	"	"	"	"	—	—	—	—
Margaret Tobey,	22	"	"	—	"	—	—	—	—
Joseph Tobey, Jr.,	42	Married,	"	Farmer,	"	75	150	750	800
Leah Tobey,	38	"	"	—	"	—	—	—	—
Henrietta Tobey,*	21	Single,	"	—	"	—	—	—	—
Sarah Tobey,	19	"	"	—	"	—	—	—	—
John Tobey,	16	"	"	—	"	—	—	—	—
Jedida Tobey,	14	"	"	—	"	—	—	—	—
Ephraim Tobey,	37	Married,	"	Mariner,	"	—	60	300	400
Philena Tobey,	24	"	"	—	"	—	—	—	—
Sidney Tobey,	5	Boy,	"	—	"	—	—	—	—
Corinne Tobey,	4	Girl,	"	—	"	—	—	—	—
Margaret Tobey,	2	"	"	—	"	—	—	—	—
Alphonso Tobey,	4 mos.	Boy,	"	—	"	—	—	—	—

Stephen Van Rensellaer,	28	Married,	Colored, (for.)	Mariner,	Marshpee.	—	—	—	—
Lucien G. Van Rensellaer,	33	"	Marshpee,	—	"	—	30	$120	—
Josephine Williams,	12	Girl,	"	—	"	—	—	—	—
John Vallon,	26	Married,	Colored, (for.)	Mariner,	Holmes' Hole.	—	—	—	—
Sarah Vallon,	23	"	Marshpee,	—	"	—	—	—	—
Bradford Vallon,	9	Boy,	"	—	"	—	—	—	—
Clarissa Mingo,	20	Single,	"	—	"	—	—	—	—
Sarah F. Mingo,	1½	Girl,	"	—	"	—	—	—	—
Jesse Webquish,	76	Married,	"	Farmer,	Marshpee.	—	150	900	$1,050
Prudence P. Webquish,	57	"	"	—	"	—	—	—	—
Jesse Webquish, Jr.,†	33	Married,	"	Mariner,	New Bedford.	—	—	—	—
Rebecca J. Webquish,	27	"	"	—	Marshpee.	—	—	—	—
Estella B. Webquish,	4	Girl,	"	—	"	—	—	—	—
Levi S. Webquish,	29	Married,	"	Mariner,	"	—	—	—	—
Anna F. Webquish,	25	"	"	—	"	—	—	—	—
Levi Webquish,	8	Boy,	"	—	"	—	10	70	—
Thaddeus Wickham,	10	"	"	—	"	—	—	—	—
William Webquish,	28	Married,	"	Mariner,	"	—	25	75	—
Minerva Webquish,	31	"	"	—	"	—	30	120	—
Ferdinand Webquish,	3	Boy,	"	—	"	—	—	—	—
Nancy Williams,	66	Widow,	"	—	"	—	—	—	—
John H. Webster,	—	Married,	Colored, (for.)	Mariner,	Plymouth.	—	60	240	465
Ruth R. Webster,	27	"	Marshpee,	—	"	—	—	—	—
Infant,	—	—	"	—	"	—	—	—	—

* Have married to David Robbins.

† Jesse Webquish, Jr., and his wife have separated, and he has since married another woman in New Bedford, who calls her name Emeline Webquish, by whom he has a daughter, two years old, named Louisa M.; but, as he has never been divorced, the latter marriage is, of course, void, and the issue thereof, consequently illegitimate.

MARSHPEE TRIBE—*Continued.*

NAME.	Age.	Sex or Condition.	Tribe or Race.	Occupation.	Residence.	Personal Property.	Acres of Land in severalty.	Value of Land.	Value of Land and Buildings.
Jane A. Whiting,	50	Widow,	Marshpee,	–	Marshpee,	–	53	$159	$234
Isabella F. Whiting,*	21	Single,	"	–	"	–	–	–	–
Lauretta L. Whiting,	17	"	"	–	"	–	–	–	–
Iantha Whiting,	2	Girl,	"	–	"	–	–	–	–
Gilbert Whiting, infant,		Boy,	"	–	"	–	–	–	–
David Wilbur,	76	Widower,	"	Farmer,	"	$50	102	408	458
Joseph Wilbur,	36	Single,	"	Mariner,	"	–	–	–	–
James Wilbur,	29	"	"	"	"	–	–	–	–
John Young,	50	Married,	Colored, (for.)	Farmer,	"	30	220	880	1,080
Mary R. Young,	43	"	Marshpee,	–	"	–	–	–	–
Austin Young,†	18	Single,	"	–	"	–	–	–	–
Fanny R. Young,†	13	"	"	–	"	–	–	–	–
Maria Antonietta Young,†	7	Girl,	"	–	"	–	–	–	–
John Young, Jr.,†	5	Boy,	"	–	"	–	–	–	–
Lydia Ann Young,	3 mos.	Girl,	"	–	"	–	–	–	–
James Henry Pells,	21	Single,	"	Mariner,	"	–	–	–	–
Silas Parker Pells,‡	21	"	"	"	"	–	–	–	–
Foster L. Pells,	19	"	"	"	"	–	–	–	–
Olive G. Pells,	15	"	"	–	"	–	–	–	–
Mary F. Pells,	13	"	"	–	"	–	–	–	–
Gustavus D. Pells,	11	Boy,	"	–	"	–	–	–	–
Leah Quippish,	4[illegible]	Widow,	"	–	"	–	20¼	1,423	1,453
James A. Lewis,	[illegible]	Boy,	"	–	"	–	–	–	–

* Since married to Isaac Hendricks but subsequently deceased.

† Those with this mark are children of John Young, by a former wife. Those which follow are children of Mary R. Young; three named Pells, by Jacob Pells, her first husband.

‡ Since married to Lydia Thompson.

SUPPLEMENTARY LIST.

In addition to the foregoing, are several persons, who either left Marshpee previous to the division of the land, or are descendants of such, but who are not recognized as having rights in Marshpee, among whom are the following:—

NAME.	Age.	Sex or Condition.	Tribe or Race.	Occupation.	Residence.	Personal Property.	Acres of Land in severalty.	Value of Land.	Value of Land and Buildings.
Sarah Brown,	73	Widow,	Marshpee,	–	Wareham,	–	–	–	–
John Jones,	55	Married,	(Foreigner,)	–	"	–	–	–	–
Lucy Jones,	53	"	Marshpee,	–	"	–	–	–	–
James Jones,	19	Single,	"	–	"	–	–	–	–
James Brown,	51	"	"	–	"	–	–	–	–
William Brown,	44	"	"	–	"	–	–	–	–
Maria Smith,	40	Widow,	"	–	"	–	–	–	–
Mary Smith,	20	Single,	"	–	"	–	–	–	–
Andrew Smith,	16	Boy,	"	–	"	–	–	–	–
Isaac Smith,	15	"	"	–	"	–	–	–	–
Fanny Smith,	13	Girl,	"	–	"	–	–	–	–
Oliver Smith,	10	Boy,	"	–	"	–	–	–	–
Emeline Rollins,	25	Widow,	"	–	"	–	–	–	–
Henry Rollins,	13	Boy,	"	–	"	–	–	–	–